

MISCELLANEOUS PARKS AND PUBLIC LANDS MEASURES

HEARING BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED FIRST CONGRESS FIRST SESSION

ON

S. 319, S. 374, S. 393, S. 620, S. 1230, H.R. 2783

SEPTEMBER 12, 1989



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Committee on Energy and Natural Resources

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MISCELLANEOUS PARKS AND PUBLIC LANDS MEASURES

SEPTEMBER 12, 1989

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Jake Garn, presiding.

Senator GARN. The subcommittee will come to order. Senator Conrad has been delayed, and I would ask unanimous consent that an opening statement by Senator Conrad be placed in the record.

[Statements of Senators Conrad, Wallop, Murkowski, Burdick, Congressman Dorgan, and text of the legislation follow:]

(1)

Kent Conrad

STATEMENT OF

SENATOR KENT CONRAD

ON

S. 1230, A BILL TO AUTHORIZE ACQUISITION OF ADDITIONAL LANDS
AT THE KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

BEFORE THE
PUBLIC LANDS SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

September 12, 1989

I want to thank the distinguished Chairman of the Committee, Senator Johnston, and the distinguished Chairman of the Public Lands Subcommittee, Senator Bumpers, for holding this hearing on S. 1230. I also want to commend the sponsor of this measure, Senator Burdick, for introducing the bill. Unfortunately, Senator Burdick can not be with us today; he is out of town on business with the Committee on Environment and Public Works.

S. 1230 authorizes acquisition of approximately 465 acres as an addition to the Knife River Indian Villages National Historic Site, which is located near Stanton, North Dakota at the confluence of the Knife and Missouri rivers. It also increases the amount authorized for park development from \$2.268 million to \$4 million.

Congress established the Knife River Indian Villages National Historic Site in 1974 to preserve historic and archeological remnants of the culture and lifestyle of the Mandan, Hidatsa and Arikara Indians. At one time, it was a hub for trading between tribes, as well as with white fur traders. It is the only unit of the National Park Service created specifically to commemorate the culture and history of the Plains Indians and to interpret their lifestyle. Knife River represents one of the longest unbroken records of cultural development among identifiable tribal groups anywhere in the world.

Interpretation of this ancient cultural history is one of the most important aspects of the Knife River site, and Senator Burdick, Congressman Dorgan and I hope to obtain money this year in the Interior Appropriations Bill to construct a visitors center and administration building at Knife River. Interest in the site is evident -- visitation has more than doubled since 1984. About 20,000 people will visit Knife River in 1989.

The acreage to be acquired under S. 1230 is virgin prairie land, itself a rarity these days. More importantly, however, archeologists have discovered the presence of predecessor tribes of the Mandan, Hidatsa and Arikara Indians in a series of mounds known as the "Stanton Mound Group." These mounds are rare in the Missouri River Valley, and are not within the present boundaries of the site. The mounds are linear, and the largest is 600 feet long and 30 feet wide -- typical of burial sites in other locations. S. 1230 authorizes the National Park Service to acquire these unique areas.

The bill would also permit a contiguous park boundary while protecting the viewshed and providing optimum resource protection and visitor use.

The bill enjoys wide support in North Dakota. Local park officials want to acquire the land, they have a willing seller, and the state wants to preserve the acreage. I have, however, received a letter dated July 24, 1989 from James Bakken, Superintendent for the Stanton Public School, in which he expressed his concern about how the acquisition would affect the tax base of the school system. I share Mr. Bakken's concerns, and will be looking at ways the Committee can address this issue as we move toward markup of the bill. I ask unanimous consent that a copy of Mr. Bakken's letter be entered in the record.

The acquisition of this additional acreage at Knife River would be an excellent addition to the National Park Service system, and I will ask Senators Bumpers and Johnston to move the bill as soon as possible.

Stanton Public School

P.O. Box 40 ⁴²⁴⁵⁴
 312 Harmon Avenue
 Stanton, North Dakota 58571
 701/745-3318

Board of Education:

Carol Sailer, President
 Pamela Platz, Vice President
 Thomas Vollmuth, Director
 Dean Klindworth, Director
 Earl Affolter, Director

Superintendent:

James T. Bakken

Secondary Principal:

Gerald Quintus

Elementary Principal:

Paulette K. Palmer

Business Manager:

Sandra Folk

July 24, 1989

The Honorable Kent Conrad
 United States Senate
 Washington, D.C. 20510

Dear Mr. Conrad:

I am writing to you in regards to the amount of land that is being purchased for the Knife River Indian Villages National Historic Site at Stanton, North Dakota.

The Stanton School District is quite small, approximately six miles wide by twelve miles long. Our taxable valuation is \$898,865, so each time land is taken from our school district, or becomes tax exempt, as is the case for the Knife River Villages National Historic Site, it creates an extra burden on the other taxpayers in the district.

The school board and myself feel very strongly about this situation. There should be some monetary means of off-setting our loss in tax dollars.

As you can see by the following statistics, our school district will be deficit spending this year. We cannot continue to do this and keep a healthy financial picture for our school district. Please take into consideration this request and keep us informed as to what might be done to alleviate the problem that is developing.

Taxable valuation - \$898,865.00
 Total mill levy - 186 mills
 Enrollment (K-12) 1988-89 - 186
 Expenditures 88-89 - \$784,424
 Expenditures 89-90 - \$794,466 (projected)
 Revenue 88-89 - \$761,588
 Revenue 89-90 - \$750,964 (projected)

Thank you for your consideration.

James Bakken
 James Bakken
 Superintendent

Malcolm Wallop

Senator Malcolm Wallop

Subcommittee on Public Lands, National Parks and Forests

Hearing on S. 319, S. 374, S. 393, S. 620,

S. 1230, and H.R. 2783

September 12, 1989

Mr. Chairman, thank you for scheduling this hearing to enable us to discuss the merits of legislation affecting public lands in the states of Utah, Alaska, North Dakota, Minnesota, Nevada, and the states through which the Pony Express Trail runs.

In addition, I commend Senators Garn, Murkowski, Hatch, Reid, Bryan, Stevens, and Burdick for their hard work on these pieces of legislation. I am well aware of the hard and diligent work and progress which my distinguished colleagues have accomplished in attempting to secure passage of these bills.

I have a particular interest in the Pony Express Trail, as it was a very important part of the history of my home state of Wyoming. I would like to point out that the Trail was a very important communications route before the telegraph came into use in 1861. It linked through horse-and-rider relay system the already-settled East to the West Coast, and established a rapid postal service between these areas. It also demonstrated that such a route was feasible during all seasons of the year, thus proving that a transcontinental railroad would also be viable. Perhaps just as important as the historic implications was the courage and conviction of Pony Express riders and station masters, which has left generations of Americans with remarkable examples of bravery, tenacity, and spirit of which our nation can be proud.

I look forward to hearing the testimony of the witnesses today, and to working with the Committee on these bills. Thank you, Mr. Chairman.

STATEMENT OF SENATOR MURKOWSKI
ENR Subcommittee on Public Lands, National Parks and Forests

RE: S.620, for the relief of LEROY SHEBAL

September 13, 1989

MR. CHAIRMAN, I would like to speak today in support of Mr. LeRoy Shebal and S.620, a private relief bill introduced by Senator Stevens of which I am a co-sponsor.

The purpose of this bill is to direct the Secretary of Interior to sell 5 acres of land in Alaska to Mr. Shebal. Land that Mr. Shebal has occupied with his family for over 30 years.

LeRoy filed a claim with the Bureau of Land Management in 1958 under the Small Tract Act to purchase this piece of land. BLM offered him a 20 year lease with an option to purchase the land. In good faith, LeRoy made several costly improvements, all within the stipulations of his lease agreement, and established a first class recreation site. During the summer of 1964 Mr. Jesse Johnson, then the Chief of Lands Adjudication with the BLM office in Fairbanks, came to visit LeRoy and told him he had one of the nicest sites in his district. In 1965, BLM sent LeRoy a letter and advised him that he could now purchase the land for \$650.00. Unfortunately, LeRoy's wife was very ill and he could not afford it at that time but he indicated his continued interest in purchasing the land and was assured by BLM that as long as he kept his lease payments up the offer to sell would remain. BLM also assured him that if anything changed which would affect his right to purchase they would give him 30 days notice.

L

That is where the problems began. LeRoy wrote a letter to the BLM in September of 1971 advising them that he was ready to purchase his land. The BLM did not respond until January of 1973. A year and a half later. By that time the land in question had been withdrawn by Public Land Order 4852. BLM simply told LeRoy that it was too late despite their promises to notify him if things changed.

LeRoy Shebal did everything right. He was in constant contact with the Fairbanks BLM office. He deserved to have title to this land back in 1965. He should not be penalized because BLM failed to notify him. Mr. Chairman, this committee frequently deals with legislation to protect the private rights of our citizens. Our criteria demands that legislation be of last resort -- that there is no other way to rectify the situation. Clearly, LeRoy's case meets that criteria. It would be a grave injustice to his efforts if we did not allow him to gain title to these 5 acres.

Thank you, Mr. Chairman.

QUESTIONS:

1. In 1960, Mr. Shebal asked that the dimensions of his tract be changed because the original dimensions included an unuseable portion of land. BLM assured him that the sale clause would be omitted only until BLM could come out for a site inspection. Why was the option to purchase the land never put back in Mr. Shebal's second lease?
2. Why didn't BLM advise Mr. Shebal of P.L.O. 4852 and it's affect on his right to buy the land?
3. Why did it take BLM until 1973 to respond to Mr. Shebal's offer to buy the land?
4. What is the fair market value of the land now? Was fair market value \$650.00 in 1965?
5. What is the fair market value for the land and Mr. Shebal's improvements now?
6. What would be the cost of a survey of the land now?



STATEMENT OF SENATOR BURDICK BEFORE THE SUBCOMMITTEE ON PUBLIC
LANDS, NATIONAL PARKS, AND FORESTS, SENATE ENERGY AND NATURAL
RESOURCES, ON S. 1230.

SEPTEMBER 12, 1989

Mr. Chairman, as the sponsor of one of the bills being discussed today, S. 1230, I would like to first express my gratitude to you for scheduling today's hearing.

My bill authorizes an expansion of the Knife River Indian Villages National Historic Site in North Dakota. Knife River was authorized as a National Historic Site by the 93rd Congress to preserve and interpret the culture of the early Plains Indians, particularly the Mandan and Hidatsa tribes. Since the site was established, additional Indian burial mounds have been discovered adjacent to the current boundaries. These newly found burial mounds represent a group of predecessors to the Mandan and Hidatsa. The Park Service agrees that these archeological sites represent a significant era not otherwise preserved within the National Park System and that they should be acquired and preserved.

S. 1230 would authorize the addition of three parcels of land; the 329 acres containing the burial mounds; a 95-acre tract on which the current landowner's farmstead sits; and a 41-acre tract within the site boundaries. The total land involved is not great, but the historical significance of these burial mounds cannot be ignored. I believe we must expand Knife River Indian Villages to preserve a rich part of our country's history.

It should be noted that the Park Service supports the acquisition of all three sites, but the bill clearly specifies that all purchases be made on a willing-seller basis. The bill also increases the authorized development ceiling for Knife River to allow for the construction of a new visitor/administrative facility, for which funds have already been appropriated. This center will interpret the significance of the site and the area's history and offer information for visitors.

Mr. Chairman, this is a simple, but important piece of legislation which enjoys widespread support in North Dakota. As evidence of this support, I ask that several letters I have received from interested parties be inserted into the hearing record.

Again, thank you, Mr. Chairman, for calling today's hearing. I urge the committee to act favorably on S. 1230 at its earliest convenience.



THREE AFFILIATED TRIBES • FORT BERTHOLD RESERVATION

Mandan, Hidatsa, and Arikara Tribes

TRIBAL BUSINESS COUNCIL

P.O. Box 220 • New Town, North Dakota 58763 • (701) 627-4781

September 1, 1989

Edward Lone Fight
Tribal ChairmanDelvin Driver, Sr.
Vice-Chairman
Parshall/Lucky Mound SegmentTed Lone Fight III
Secretary
Mandaree SegmentLawrin "Hugh" Baker
Treasurer
Four Bears SegmentAustin Gillette
White Shield SegmentTitus Hall
New Town/Little Shell SegmentJim Mossett
Twin Buttes Segment

Michael O. Holm
Superintendent
United States Department of
the Interior
National Park Service
Knife River Indian Villages
R.R. #1, Box 168
Stanton, North Dakota 58571-9801

Dear Mr. Holm:

The Three Affiliated Tribes supports Senate Bill 1230, which is a bill authorizing the acquisition of additional lands containing Indian burial grounds for inclusion into the Knife River Indian Village National Historic Site.

The lands presently referred to are the Kreiger properties threatened by gravel mining and it is important that these significant Indian remains be preserved.

Your cooperation is appreciated in advocating for the approval of the bill.

Sincerely,

Edward Lone Fight
Chairman

cc:
U.S. Senator Quentin N. Burdick

*Senator
Burdick
for signature
cc*



NORTH DAKOTA INDIAN AFFAIRS COMMISSION

**1ST FLOOR
STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505**

**GOVERNOR GEORGE A. SINNER
CHAIRMAN
PHONE
701-224-2200**

September 8, 1989

**JUANITA J. HELPHREY
EXECUTIVE DIRECTOR
PHONE
701-224-2428**

Senator Quentin N. Burdick
511 Hart Office Building
Washington, D.C. 20510

Dear Senator Burdick:

I understand there will be a hearing on Tuesday, September 12, 1989, with regards to the Knife River Indian Village Site and the purchase of additional National Park Lands.

I have some comments to make relative to this subject and I desire that they be made part of the Public Hearing records:

Our Commission became involved in the preservation of several burial sites known as the Stanton Burial Mound group, out of the designated park area of the Knife River Indian Village at Stanton several years ago. Prior to that we had (since 1981) been working on preservation of Indian burial mounds and reburial issues with the State Historical Society.

We have made some progress in the area of reburials, especially at the 1989 Legislative Assembly when an amendment was made to our state's "protection of historic and prehistoric burials" law, though we still have some ways to go in the development of policy and methods for implementation.

And, we have seen some progress in attempts to protect additional burial sites adjacent to the Knife River Park on lands that are in private ownership. There was, for example, successful negotiation with the landowner and with the City Council to stop mining gravel which had already destroyed parts of a major linear mound. This is the land which we understand Senator Burdick is attempting to preserve through a bill to purchase that acreage.

Because the landowner has been willing to work with Congressional delegates, the State Park's and the National Park's representatives, to sell that piece of land that has the Stanton Burial Mound group located in its auspices, we have attempted to keep communication ongoing and open with various groups but especially with the private landowner. We know this is important since he has the option to sell or not to sell and has provided us this option, but could change his mind very easily.

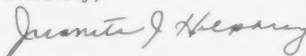
Our Commission, which is comprised of state, tribal, and local government officials, has a Resolution on file which was mailed to Senator Burdick and others several years ago (copy attached), and which requests congressional support for the purchase of this additional land. The Resolution was fully supported and all four Tribal Chairmen/person of our four Indian reservations also supported this, specifically the Tribal Business Council at Fort Berthold because of its heritage to the Knife River Park area - the members of that tribe being of Mandan, Hidatsa and Arikara heritage.

Letter to Senator Burdick
Page 2
September 8, 1989

In the whole issue of reburial and protection of Indian burial sites, an Intertribal Committee for Reburial was formed more than two years ago. It too is comprised of members from all four reservations we work with and is supported by Tribal Council resolutions. This Committee, includes myself as Executive Director of the ND Indian Affairs Commission, and a member of the State Historical Board (its only Indian member) and is the major committee we of the Commission have been working with in its goals for reburial and preservation of Indian historic and prehistoric burials. I state this because I desire it to be known that the majority of Indian people in our state are for protection of known burial sites (first) and for reburial should such sites stand in the way of progress or vandalism (second).

Please do your best for the Indian population in our state, Senator Burdick, because protecting the remains of those long ago people, who are our ancestors, and who have every right to be in their final resting place in Mother Earth, is an uppermost concern to all Indian people in North Dakota and to other citizens who understand this need and this right.

Sincerely,



Juanita J. Helphrey
Executive Director

JJH:ckd

Enclosure



NORTH DAKOTA INDIAN AFFAIRS COMMISSION

1ST FLOOR
STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505

GOVERNOR GEORGE A. SINNER
CHAIRMAN
PHONE
701-224-2200

JUANITA J. HELPHREY
EXECUTIVE DIRECTOR
PHONE
701-224-2428

RESOLUTION

WHEREAS, the North Dakota Indian Affairs Commission is an organization created by NDCC 54-36 for the purpose of mobilizing support of state and federal agencies in assisting Indian individuals and groups in North Dakota, especially the four Tribal Councils, as they seek to develop their own goals, project plans for achieving those goals and implement those plans; and

WHEREAS, the North Dakota Indian Affairs Commission whose membership is comprised of state, local, tribal and off reservation Indian officials, was made aware of the Stanton Community Action Group; and

WHEREAS, the Commission is also aware that the main priority of the Group is to request that the National Park Service fulfill their promise to develop the Knife River Indian Village; and

WHEREAS, the Commission is aware that the Group has received letters of support from all areas of concern in North Dakota including the Three Affiliated Tribes; and

WHEREAS, the proposed expansion will not only increase tourism for North Dakota but also increase the knowledge of the Indian culture of that era when the Knife River Indian Villages were still in existence.

NOW THEREFORE BE IT RESOLVED, that the North Dakota Indian Affairs Commission resolves to support the proposal of the Stanton Community Action Group asking for the funding of the \$4.2 million Visitor Center Complex.

BE IT FURTHER RESOLVED, that the Commission requests that the Secretary of Interior increase the construction budget for the National Park Service.

BE IT FURTHER RESOLVED, that the Secretary be encouraged to direct the major portion of the construction budget to the small national parks in the nation.

BE IT FURTHER RESOLVED, that this resolution be forwarded to the Secretary of Interior, the North Dakota Congressional delegates, the Stanton Community Action Group and the Indian Affairs Commission members.

Dated this 19th day of February, 1985.


Governor George A. Sinner, Chairman
ND Indian Affairs Commission

September 9, 1989

Senator Quentin Burdick
United States Senate
Washington, DC 20510

Senator Burdick,

I am sending this letter in lieu of personal testimony in support of Senate Bill 1230. Unfortunately I am unable to travel to Washington DC due to the nature of my work.

At this time, I feel that acquisition by the National Park Service of the Stanton Mound Group which is located on my property would be in the best interest of all parties concerned.

Thank you for your time, effort and support regarding this matter.

Sincerely yours,

Jesse J. Krieger
Jesse J. Krieger

cc Mick Holm, KRIV-NHS

Jesse J. Krieger
Rd #1, Box 174,
Stanton.
SEP 11 1989
58571



State Historical Society

of north dakota

(STATE HISTORICAL BOARD)

NORTH DAKOTA HERITAGE CENTER, BISMARCK, N.D. 58505
TELEPHONE 701-234-2666

September 8, 1989

Honorable Quentin Burdick
United States Senator
511 Hart Building
Washington, D.C. 20510

RE: SB1230 - National Park Service acquisition of the Stanton Burial Mounds.

Dear Senator Burdick:

We are writing in support of Senate Bill 1230 to authorize the acquisition of additional lands containing Indian burial grounds (Stanton Burial Mounds) for inclusion in the Knife River Indian Villages National Historic Site. We understand that \$398,000 is needed to purchase 465 acres in three separate parcels and for reclamation of portions of this prehistoric cemetery from gravel mining.

The Stanton Burial Mounds is a highly significant prehistoric archeological site and cemetery which is endangered by gravel mining. The site lies adjacent to Knife River Indian Villages National Historic Site overlooking the Missouri River to the east and Mandan and Hidatsa earthlodges villages to the south. Potentially this cemetery was in use for over 1100 years and possibly represents the final resting place of some of the inhabitants of the nearby villages. Acquisition of this unique site would insure its protection from further disturbance and provide a means for the park to interpret another important aspect of Indian culture.

We fully support Senate Bill 1230 and commend you for your support of North Dakota archeology and preservation of historic properties.

Sincerely,

James E. Sperry
State Historic Preservation Officer
(North Dakota)

JSS/je

cc: Juanita Helphrey - Indian Affairs Commission
Michael Holm - National Park Service

Stanton Public School

P.O. Box 40
312 Harmon Avenue
Stanton, North Dakota 58571
701/745-3319

Board of Education:

Carol Saller, President
Pamala Platz, Vice President
Thomas Vollmuth, Director
Dean Klindworth, Director
Earl Affolter, Director

Superintendent:

James T. Bakken

Secondary Principal:

Gerald Quintus

Elementary Principal:

Paulette K. Palmer

Business Manager:

Sandra Folk

July 24, 1989

The Honorable Quentin N. Burdick
United State Senate
Washington, D.C. 20510

Dear Mr. Burdick:

I am writing to you in regards to the amount of land that is being purchased for the Knife River Indian Villages National Historic Site at Stanton, North Dakota.

The Stanton School District is quite small, approximately six miles wide by twelve miles long. Our taxable valuation is \$898,865, so each time land is taken from our school district, or becomes tax exempt, as is the case for the Knife River Villages National Historic Site, it creates an extra burden on the other taxpayers in the district.

The school board and myself feel very strongly about this situation. There should be some monetary means of off-setting our loss in tax dollars.

As you can see by the following statistics, our school district will be deficit spending this year. We cannot continue to do this and keep a healthy financial picture for our school district. Please take into consideration this request and keep us informed as to what might be done to alleviate the problem that is developing.

Taxable valuation - \$898,865.00
Total mill levy - 186 mills
Enrollment (K-12) 1988-89 - 186
Expenditures 88-89 - \$784,424
Expenditures 89-90 - \$794,466 (projected)
Revenue 88-89 - \$761,588
Revenue 89-90 - \$750,964 (projected)

Thank you for your consideration.

James Bakken
James Bakken
Superintendent



TESTIMONY OF THE HONORABLE BYRON L. DORGAN
ON S. 1230 TO AUTHORIZE THE ACQUISITION OF ADDITIONAL LANDS
CONTAINING INDIAN BURIAL GROUNDS FOR INCLUSION IN THE KNIFE RIVER
INDIAN VILLAGES NATIONAL HISTORIC SITE
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

SEPTEMBER 12, 1989

Mr. Chairman, I am very pleased that this Subcommittee is conducting hearings on S. 1230 which was introduced by Senator Quentin Burdick. This bill would authorize the acquisition of additional lands for the Knife River Indian Villages National Historic Site in North Dakota. I have introduced an identical piece of legislation in the House, HR 3074.

I enthusiastically support this legislation and I urge this Subcommittee to act on this bill. This legislation would significantly contribute to preservation of the heritage of the Plains Indians, authorizing the acquisition of approximately 465 acres for the Knife River Indian Villages Historic Site. These additional lands contain valuable archeological findings of the Plains Indians that once lived near the location of Knife River. Acquisition of the additional lands is necessary to protect the artifacts and interpretation of the burial grounds. It is of great importance to protect these artifacts. Near the current boundaries of the Knife River Park are the Woodland Stanton Mounds which contain cemeteries of the predecessors of the Mandan and Hidatsas people who lived in the Knife River Indian villages.

Knife River is the only unit of the National Park Services that was specifically created to commemorate the culture and history of the Plains Indians. The site is the traditional home of the Three Affiliated Tribes: the Siouan-speaking Hidatsas and Mandans and the Caddoan-speaking Arikaras. The Lewis and Clark expedition stopped at this site along the Missouri River in the fall of 1804 and wintered nearby through April 1805. The acquisition of the additional lands would greatly enhance the value and significance of the Knife River site. Further, the Mounds will also be a valuable addition to the study of the prehistoric Plains Indian culture.

Mr. Chairman, I urge your support of this legislation. Since the current owner of the lands containing the Woodland Stanton Mounds is a willing seller, there appears to be little controversy in this acquisition. Your support would be greatly appreciated.

S. 319

IN THE SENATE OF THE UNITED STATES

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Salt Lake City Water-
4 shed Improvement Act of 1989".

6 SEC. 2. (a) The Congress finds that—

7 (1) current land ownership patterns in the North-
8 ern Canyons of the Wasatch Mountains east of Salt
9 Lake City, Utah, unnecessarily impede efficient land,
10 water resource management activities by the United

1 States Forest Service and Salt Lake City on their re-
2 spective lands;

3 (2) the Act of 1914 reserved Federal lands in
4 these canyons from mineral entry and set them aside
5 as a municipal water supply reserve for the use and
6 benefit of the city of Salt Lake City;

7 (3) the 1914 Act further provides for cooperation
8 between the Forest Service and the city in managing
9 the lands for municipal water supply purposes;

10 (4) a consolidation of United States Forest Service
11 lands and Salt Lake City lands in the canyon vicinities
12 would be in the public interest and would enhance land
13 management and water resource protection opportuni-
14 ties for both the city and the Forest Service.

15 (b) The purposes of this Act are to authorize an ex-
16 change of Forest Service and Salt Lake City lands to consoli-
17 date ownership and facilitate management, to adjust bound-
18 aries of the Wasatch National Forest accordingly, and to pro-
19 tect valid existing rights appurtenant to lands subject to con-
20 veyance under this Act.

21 CONVEYANCE OF LANDS

22 SEC. 3. (a) Certain Federal lands within the State of
23 Utah, as identified in legal land descriptions and on maps
24 dated February 1989, shall be conveyed to the Salt Lake
25 City Corporation upon the occurrence of all of the following:

1 (1) Publication in the Federal Register of legal
2 land descriptions, approved by the Secretary of Agri-
3 culture, of the Federal land to be conveyed to the city
4 by this Act.

5 (2) Publication by the Secretary in the Federal
6 Register of legal land descriptions of city lands to be
7 conveyed to the Federal Government in exchange for
8 the Federal land.

9 (3) Written notification to the Secretary that the
10 city accepts the provisions of this Act.

11 (4) Delivery to the Secretary of Agriculture of
12 documents of conveyance of the city land designated on
13 such map and in the legal land descriptions published
14 in accordance with this section for delivery to the
15 United States.

16 (5) Delivery to the city and the Secretary of writ-
17 ten approval by the Attorney General of the United
18 States of the title to the lands described in documents
19 of conveyance submitted by the city within three
20 months of their receipt by the Secretary.

21 (b) Conveyances of Federal lands under this Act shall be
22 completed notwithstanding—

23 (1) the reservations of the Act of September 19,
24 1914; and

1 (2) section 206(a) of the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1716); and

3 (3) withdrawals of lands under the United States
4 court case National Wildlife Federation versus Burford.

5 (c) Unless otherwise described in the legal land descrip-
6 tions as provided under (a), all land acquisitions and convey-
7 ances made pursuant to this Act shall only include the sur-
8 face estate.

9 (d) Land conveyances pursuant to this Act shall not re-
10 quire the preparation of an environmental analysis or an en-
11 vironmental impact statement under section 102 of the Na-
12 tional Environmental Policy Act of 1969 (42 U.S.C. 4332).

13 (e) Lands acquired by the United States pursuant to this
14 Act shall be added to, and administered as part of, the Na-
15 tional Forest System under principles of multiple use/sus-
16 tained yield consistent with and conforming to the reserva-
17 tions and purposes of the Act of September 19, 1914.

18 (f) Boundaries of the Wasatch National Forest shall be
19 adjusted as depicted on the map "Boundaries of the Wasatch
20 National Forest", dated February 1989, to reflect the con-
21 veyance and acquisition of lands pursuant to this Act.

22 (g) Valid existing rights appurtenant to lands acquired
23 by the Secretary or acquired by Salt Lake City Corporation
24 pursuant to this Act shall be recognized, protected, and man-
25 aged by the acquiring government in accordance with the

1 terms and authorities under which they were issued until new
2 similar rights can be issued by the acquiring government:

3 (1) in the case of lands acquired by the Federal
4 Government, the Secretary shall negotiate with holders
5 of valid existing rights appurtenant to such lands
6 issued by the city and provide such holders of rights
7 new similar rights under the authority of the Federal
8 Government.

9 (2) in the case of lands acquired by Salt Lake
10 City Corporation—

11 (i) the city shall negotiate with holders of
12 grazing permits, special use permits (to include
13 easements and right-of-ways), or other valid exist-
14 ing rights appurtenant to such lands issued by the
15 Federal Government and provide such holders of
16 rights with similar new rights under the authority
17 of the city; and

18 (ii) the Secretary and the Secretary of the
19 Interior shall consult and cooperate with the city
20 on any terms and conditions, consistent with wa-
21 tershed and water resource protection under the
22 Act of 1914, for leaseholder or mining claimant
23 access to the mineral estate retained by the Fed-
24 eral Government.

1 (h) The city will recognize the designations of the Na-
2 tional Historical Trail and the Mormon Pioneer Trail over
3 lands which it acquires pursuant to this Act and will manage
4 its lands in a manner consistent with such designations.

5 AUTHORIZATION OF APPROPRIATIONS

6 SEC. 4. Such sums as are necessary to carry out the
7 purposes of this Act are hereby authorized to be appro-
8 priated.

○

101ST CONGRESS
1ST SESSION

S. 374

To amend the National Trails System Act to designate the Pony Express National Historic Trail as a component of the National Trails System.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, JANUARY 3), 1989

Mr. REID (for himself and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the National Trails System Act to designate the Pony Express National Historic Trail as a component of the National Trails System.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 5(a) of the National Trails Systems Act (16
4 U.S.C. 1244(a)) is amended by adding the following new
5 paragraph at the end thereof:
6 “() The Pony Express National Historic Trail, a
7 route of approximately one thousand nine hundred miles, in-
8 cluding the original route and subsequent route changes, ex-
9 tending from Saint Joseph, Missouri, to Sacramento, Califor-
10 nia, as generally described in the report of the Department of

1 the Interior prepared pursuant to subsection (b) of this sec-
2 tion entitled 'California and Pony Express Trail, Eligibility/
3 Feasibility Study/Environmental Assessment', and dated
4 September 1987. A map generally depicting the route shall
5 be on file and available for public inspection in the Office of
6 the National Park Service, Department of the Interior. The
7 trail shall be administered by the Secretary of the Interior."

8 SEC. 2. Section 10(c)(2) of the National Trails System
9 Act (16 U.S.C. 1249(c)(2)) is amended by adding "and ()"
10 after "(16)".

○

101ST CONGRESS
1ST SESSION

S. 393

Entitled the "Camp W.G. Williams Land Exchange Act of 1989".

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, JANUARY 3), 1989

Mr. GAEN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

Entitled the "Camp W.G. Williams Land Exchange Act of 1989".

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Camp W.G. Williams
5 Land Exchange Act of 1989".

6 SEC. 2. REVOCATION OF CERTAIN PUBLIC LAND ORDERS.

7 Notwithstanding Executive Order Numbered 1922 of
8 April 24, 1914, and notwithstanding any other order, any
9 law, rule of law, or court order, the Secretary of the Interior
10 is hereby authorized and directed to revoke applicable public
11 land orders or withdrawals, to terminate classifications, and

1 to take such other actions as the Secretary determines neces-
2 sary to consummate an exchange of lands in Salt Lake
3 County, and Utah County, Utah, as identified on a map enti-
4 tled "Camp W.G. Williams Land Exchange", dated
5 . Such exchange shall be accomplished within
6 two years of enactment of this Act.

○

101ST CONGRESS
1ST SESSION

S. 620

For the relief of Leroy W. Shebal of North Pole, Alaska.

IN THE SENATE OF THE UNITED STATES.

MARCH 16 (legislative day, JANUARY 3), 1989

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

For the relief of Leroy W. Shebal of North Pole, Alaska.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. (a) Notwithstanding section 8 of the Wild
4 and Scenic Rivers Act (16 U.S.C. 1279), or any provision of
5 the public land laws of the United States, the Secretary of
6 the Interior, as soon as practicable after the conditions of
7 paragraphs (1) and (2) are met, shall sell the property de-
8 scribed pursuant to section 2 and transfer title to such prop-
9 erty in fee simple to Leroy W. Shebal of North Pole, Alaska,
10 upon receipt of—

1 (1) notification made pursuant to subsection (b)
2 within one year after the date of enactment of this Act;
3 and

4 (2) the sum of \$650 in consideration of the pur-
5 chase of such property.

6 (b) Within one year after the date of enactment of this
7 Act, the said Leroy W. Shebal may notify the Secretary of
8 the Interior of his intention to purchase the property de-
9 scribed pursuant to section 2.

10 SEC. 2. The property referred to in the first section of
11 this Act is the real property located at township 8 north,
12 range 1 west, section 36, west half of southwest quarter,
13 Fairbanks meridian.

○

101ST CONGRESS
1ST SESSION

S. 1230

To authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, North Dakota, and to provide additional developmental funding for the historic site visitor center.

IN THE SENATE OF THE UNITED STATES

JUNE 22 (legislative day, JANUARY 3), 1989

Mr. BURDICK introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 26 (legislative day, JANUARY 3), 1989

Committee discharged; ordered referred to the Committee on Energy and Natural Resources

A BILL

To authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, North Dakota, and to provide additional developmental funding for the historic site visitor center.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

4 (a) The Secretary of the Interior is authorized to acquire
5 by purchase with donated or appropriated funds, donation, or

1 exchange the lands comprising approximately 465 acres and
2 described in subsection (b) as an addition to the Knife River
3 Indian Villages National Historic Site, North Dakota.

4 (b) The lands referred to in subsection (a) are those
5 lands depicted on the map entitled "Proposed Boundary Map,
6 Knife River Indian Villages National Historic Site", dated
7 June 1988.

8 (c) There are authorized to be appropriated such sums
9 as may be necessary to carry out the provisions of this Act.

10 **SEC. 2. ADDITIONAL DEVELOPMENTAL FUNDING.**

11 Section 104(c) of Public Law 93-487 (88 Stat. 1461)
12 is amended by striking "\$2,268,000" and inserting
13 "\$4,000,000".

○

101ST CONGRESS
1ST SESSION

H. R. 2783

IN THE SENATE OF THE UNITED STATES

AUGUST 3 (legislative day, JANUARY 3), 1989

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To improve the management of certain public lands in the State
of Minnesota.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; FINDINGS AND PURPOSES; DEFINI-
4 TIONS.

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Minnesota Public Lands Improvement Act of 1989”.

7 (b) FINDINGS.—Congress hereby finds and declares
8 that—

1 (1) within the State of Minnesota there are a
2 number of small scattered islands and upland tracts
3 that are in Federal ownership and under the jurisdic-
4 tion of the Bureau of Land Management;

5 (2) the public interest would be best served if
6 these Federal islands and upland tracts continue to be
7 managed for public recreation; preservation of open
8 space; and for the protection of their fish, wildlife, and
9 plants and their scientific, historic, cultural, geologic,
10 and other resources and values;

11 (3) many such islands and upland tracts are not
12 suitable for inclusion in the National Park System, Na-
13 tional Forest System, National Wildlife Refuge
14 System, or other Federal conservation system or for ef-
15 ficient management by the Bureau of Land Manage-
16 ment;

17 (4) the State of Minnesota is prepared and willing
18 to undertake to manage such islands and upland tracts
19 for such purposes and subject to appropriate conditions,
20 but existing mechanisms for enabling the State to un-
21 dertake such management are cumbersome and ineffi-
22 cient as applied to such small, scattered islands and
23 tracts;

24 (5) elsewhere in Minnesota there are unpatented
25 lands which for many years have been in the posses-

1 sion of parties other than the United States but the
2 title to which is clouded because of claims arising
3 under public land laws or otherwise involving possible
4 Federal residual interests;

5 (6) existing authorities for Federal resolution of
6 such conflicts, and for removal of such clouds on title,
7 are often not well suited for efficient, expeditious
8 action that appropriately protects the interests of all
9 parties, including the United States; and

10 (7) legislation to facilitate appropriate manage-
11 ment by the State of Minnesota of such islands and
12 upland tracts and to facilitate resolution of such claims
13 and removal of such clouds would be in the public
14 interest.

15 (c) PURPOSES.—This Act is intended to provide for
16 better management of public lands located in the State of
17 Minnesota by—

18 (1) transferring certain specified unclaimed islands
19 and uplands and certain other public lands to such
20 State for purposes of public recreation, protection of
21 fish, wildlife, and plants, and the protection of re-
22 sources and values; and

23 (2) authorizing the Secretary of the Interior to re-
24 solve claims to certain other public lands in Minnesota
25 and to transfer such lands to claimants thereof on

1 terms that recognize the equities of such claimants in
2 such lands.

3 (d) DEFINITIONS.—As used in this Act—

4 (1) the term “listed uplands and islands” means
5 those vacant, unappropriated, and unreserved public
6 lands located in the State of Minnesota which are spec-
7 ified in the list entitled “Minnesota Uplands and Is-
8 lands Appropriate for State Management” dated June,
9 1989, on file in the Office of the Secretary of the
10 Interior, except for any lands ceded to the United
11 States by an Indian tribe pursuant to the Act of Janu-
12 ary 14, 1889 (25 Stat. 642);

13 (2) the term “public lands” has the same meaning
14 as specified in section 103(e) of the Federal Land
15 Policy and Management Act of 1976 (43 U.S.C.
16 1702(e));

17 (3) the term “claim” means an assertion by a
18 party other than the United States that such party has
19 title to a parcel or tract of land;

20 (4) the term “Recreation and Public Purposes
21 Act” means the Act of June 14, 1926, as amended (43
22 U.S.C. 869 et seq.);

23 (5) the term “Secretary” means the Secretary of
24 the Interior; and

1 (6) the term "State" means the State of
2 Minnesota.

3 SEC. 2. GRANT TO STATE.

4 (a) UNCLAIMED AREAS.—Effective one hundred and
5 eighty days after the date of enactment of this Act and sub-
6 ject to its terms and conditions, the right, title and interest of
7 the United States in and to all listed uplands and islands,
8 surveyed and unsurveyed, in the Great Lakes, inland lakes
9 and rivers, and other bodies of water within the State which
10 as of January 1, 1989, were not subject to any claim identi-
11 fied on the records of the Bureau of Land Management, are
12 hereby granted to the State.

13 (b) CLAIMED AREAS.—Any listed uplands and islands
14 which were subject to a claim identified on the records of the
15 Bureau of Land Management on January 1, 1989, may be
16 sold by the Secretary to the claimant or claimants thereof
17 under section 3 of this Act. No later than one hundred and
18 eighty days after the date of enactment of this Act, the Sec-
19 retary shall notify such claimant or claimants concerning the
20 Secretary's authority for such sales. The right, title, and in-
21 terest of the United States in and to any such listed uplands
22 and islands not purchased by such claimant or claimants
23 within ten years after the date of enactment of this Act shall
24 be transferred by the Secretary to the State under and sub-
25 ject to this Act at the end of such ten years, and any claim to

1 any such listed uplands and islands by any party other than
2 the State shall not thereafter be enforceable in any court of
3 the United States.

4 (c) PRIOR TRANSFERS.—

5 (1) Title to the surface estate in all public land
6 which on the date of enactment of this Act was subject
7 to leases issued under the authority of the Recreation
8 and Public Purposes Act to the State, its departments,
9 agencies, and bureaus, shall be deemed to have been
10 granted to and vested in the State under this Act on
11 such date and shall thereafter be exempt from the re-
12 quirements of the regulations of the Department of the
13 Interior governing leases under the Recreation and
14 Public Purposes Act, but shall be subject to the provi-
15 sions of this Act.

16 (2) Upon reversion and acceptance of public land
17 in Minnesota which prior to the date of enactment of
18 this Act was leased or patented under the Recreation
19 and Public Purposes Act to entities other than the
20 State, its departments, agencies and bureaus, the sur-
21 face estate in such lands shall be transferred by the
22 Secretary to the State pursuant to and subject to the
23 provisions of this Act.

24 (3) If, in order to bring lands under the provisions
25 of this Act, the State notifies the Secretary that the

1 State desires to relinquish to the United States the
2 right, title, and interest of the State in and to any
3 lands which prior to the date of enactment of this Act
4 were patented to the State (or to any department,
5 agency, or bureau of the State) under the authority of
6 the Recreation and Public Purposes Act, the Secretary
7 shall transfer such relinquished lands to the State
8 under and subject to the provisions of this Act. Such
9 transfer shall be effective at the same time that the
10 State's relinquishment is effective.

11 SEC. 3. RESOLUTION OF CLAIMS.

12 (a) SALES.—In accordance with the provisions of this
13 section, the Secretary is authorized to sell and issue a patent
14 to a tract of public land located in Minnesota to an applicant
15 for such sale where the Secretary determines that—

16 (1) such tract does not exceed 1,500 acres and,
17 because of its location or other characteristics, is diffi-
18 cult and uneconomic to manage as part of the public
19 lands and is not suitable for management by another
20 Federal department or agency, and

21 (2) such sale would not be inconsistent with land
22 use plans developed in accordance with section 202 of
23 the Federal Land Policy and Management Act of 1976
24 (43 U.S.C. 1712).

1 (b) PRICE ADJUSTMENTS.—Notwithstanding any other
2 provision of law, following adjudication of any claims the
3 Secretary may, at the Secretary's discretion, convey land
4 pursuant to this section at fair market value, less equities
5 presented by an applicant for such conveyance and less the
6 value of any improvements that the applicant or the appli-
7 cant's predecessors in interest have placed on the land. Such
8 equities may include (but are not limited to)—

- 9 (1) the amount paid for the land by the applicant;
10 (2) longevity of applicant's claim;
11 (3) taxes paid on the land; and
12 (4) other equities as the Secretary may determine
13 relevant.

14 (c) DESCRIPTIONS.—Any tract of public land conveyed
15 pursuant to this section shall be described in accordance with
16 the Public Land Survey System as reflected on the approved
17 Federal plat of survey. Where a tract does not conform to an
18 existing survey plat, the Secretary may either—

- 19 (1) convey title to a trustee, qualified under the
20 laws of the State to act as a trustee and acceptable to
21 the Secretary, acting on behalf of more than one appli-
22 cant to whom such trustee shall be required to transfer
23 such tract, in order to conform the legal description to
24 such plat; or

1 (2) require an applicant to reimburse the United
2 States for the cost of preparing a plat of survey. No
3 cost incurred by a trustee in implementing this subsec-
4 tion shall be borne by the United States.

5 (d) **APPLICABILITY AND PROCEDURE.**—

6 (1) This section shall apply only to tracts specified
7 in section 2(b) of this Act and to other tracts of public
8 lands in Minnesota whose sale is requested by persons
9 or entities asserting claims thereto, and only if the Sec-
10 retary has determined such claims to be sufficiently
11 meritorious as to be appropriate for exercise of the
12 Secretary's discretionary authority under this section.

13 (2) No sale under this section shall take place
14 before thirty days after the Secretary has published in
15 a newspaper of general circulation in the county where
16 a tract proposed for sale is located a notice of the Sec-
17 retary's determination that such tract is eligible for
18 sale under this section and that the Secretary intends
19 to offer such tract for sale. Such notice shall indicate
20 the size and general location of the tract and the name
21 or names of the claimant or claimants to whom the
22 Secretary intends to sell such tract.

23 **SEC. 4. RESERVATIONS AND CONDITIONS.**

24 (a) **MINERAL RESERVATION.**—All lands granted by,
25 and any patent or document of conveyance or other transfer

1 issued pursuant to, this Act shall be subject to the reservation
2 to the United States of all minerals in the lands granted,
3 conveyed, or otherwise transferred, together with the right to
4 prospect for, mine and remove the minerals under applicable
5 law and such regulations as the Secretary may prescribe,
6 except that in the case of sales under section 3 of this Act the
7 Secretary may convey the minerals together with the surface
8 in accordance with section 209 of the Federal Land Policy
9 and Management Act of 1976 (43 U.S.C. 1719).

10 (b) OTHER CONDITIONS.—

11 (1) The lands granted or otherwise transferred to
12 the State under this Act shall not be conveyed or oth-
13 erwise transferred by the State to any person or entity
14 other than the United States or a political subdivision
15 of the State.

16 (2) The lands granted or otherwise transferred to
17 the State under this Act shall be used only for pur-
18 poses of—

19 (A) public recreation;

20 (B) protection of fish and wildlife (including
21 habitat) and plants; or

22 (C) the protection of the scenic, scientific,
23 historic, cultural, geologic, and other resources
24 and values of such lands.

1 (3)(A) If the State attempts to convey or other-
2 wise transfer title to any part of the lands granted or
3 otherwise transferred to the State under this Act to
4 any person or entity other than the United States or a
5 political subdivision of the State, all right, title, and in-
6 terest in and to all such lands so granted or otherwise
7 transferred to the State, together with all improve-
8 ments thereon, shall revert to the United States.

9 (B) If any political subdivision of the State at-
10 tempts to convey or otherwise transfer title to any part
11 of any lands granted or otherwise transferred to the
12 State under this Act (and conveyed or otherwise trans-
13 ferred to such subdivision by the State) to any person
14 or entity other than the State, all right, title, and in-
15 terest in and to all such lands so conveyed or other-
16 wise transferred to such subdivision, together with all
17 improvements thereon, shall revert to the United
18 States.

19 (4)(A) If any part of the lands granted or other-
20 wise transferred to the State under this Act (and not
21 further conveyed or otherwise transferred by the State
22 to a political subdivision thereof) are used for any pur-
23 pose incompatible with the purposes specified in para-
24 graph (2) of this subsection, all right, title, and interest
25 in and to all such lands in the ownership of the State,

1 together with all improvements thereon, shall revert to
2 the United States.

3 (B) If any of the lands granted or otherwise trans-
4 ferred to the State under this Act are conveyed or oth-
5 erwise transferred by the State to a political subdivi-
6 sion of the State, use of part of any such lands for any
7 purpose incompatible with the purposes specified in
8 paragraph (2) of this subsection shall cause all right,
9 title, and interest in and to all such lands so conveyed
10 or otherwise transferred to such political subdivision,
11 together with all improvements thereon, to revert to
12 the United States.

13 SEC. 5. NOTICE AND ENFORCEMENT.

14 (a) PUBLIC NOTICE.—

15 (1) As soon as practicable after the date of enact-
16 ment of this Act, the Secretary, in consultation with
17 appropriate officials of the State, shall take steps to
18 notify residents of the State as to the nature and loca-
19 tion of the listed uplands and islands to be granted or
20 otherwise transferred to the State under this Act.

21 (2)(A) The State shall provide notice in writing to
22 the Secretary with regard to any conveyance or other
23 transfer by the State to a political subdivision thereof of
24 any of the lands granted or otherwise transferred to
25 the State under this Act. In the event that the State

1 fails to provide such notice within one year after any
2 such conveyance or transfer, such conveyance or trans-
3 fer by the State shall be void ab initio and all right,
4 title, and interest in and to the land covered by such
5 attempted conveyance or transfer shall revert to the
6 United States.

7 (B) No later than five years after the date of en-
8 actment of this Act, and every five years thereafter,
9 the State shall submit to the Secretary a report as to
10 the present ownership, management, and use of the
11 lands granted or otherwise transferred to the State
12 pursuant to this Act.

13 (3) The Secretary shall maintain in the Secre-
14 tary's offices in the District of Columbia and in an ap-
15 propriate office in the State a current listing of the
16 lands granted or otherwise transferred to the State
17 under this Act, including a record of which if any of
18 such lands have been conveyed or otherwise trans-
19 ferred by the State to a political subdivision thereof.

20 (b) ENFORCEMENT.—

21 (1) Any person may submit to the Secretary a
22 complaint alleging that the State or a political subdivi-
23 sion thereof has failed to comply with the requirements
24 of this Act or that actions have occurred which have
25 had the effect of causing the reversion to the United

1 States of some or all of the lands granted or otherwise
2 transferred to the State under this Act.

3 (2) In the event that the Secretary determines
4 that a complaint received under this subsection is sup-
5 ported by evidence sufficient to warrant further investi-
6 gation, the Secretary shall investigate the matter.

7 (3) If, as a result of an investigation under para-
8 graph (2) or for any other reason, the Secretary deter-
9 mines that title to some or all of the lands granted or
10 otherwise transferred to the State under this Act has
11 reverted to the United States pursuant to this Act, the
12 Secretary shall take all necessary steps to enforce such
13 reversion and to stop use of any part of such lands for
14 any purpose incompatible with the purposes specified in
15 section 4(b)(2) of this Act.

16 (4) Any lands which may revert to the United
17 States under this Act shall be retained and managed
18 by the Secretary for the purposes specified in section
19 4(b)(2) of this Act.

20 **SEC. 6. HUNTING AND FISHING.**

21 Nothing in this Act shall be construed as affecting the
22 jurisdiction or responsibilities of the State of Minnesota with
23 respect to fish and wildlife (including the regulation of hunt-
24 ing, fishing, and trapping) in any lands granted or otherwise
25 transferred to the State under this Act.

1 SEC. 7. CONFORMING AMENDMENT.

2 (a) Subsection 3(d) of the Michigan Public Lands Im-
3 provement Act of 1988 (Public Law 100-537) is hereby
4 amended by striking the period at the end of paragraph (1) of
5 such subsection and by inserting in lieu thereof “, and only if
6 the Secretary has determined such claims to be sufficiently
7 meritorious as to be appropriate for exercise of the Secre-
8 tary’s discretionary authority under this section.”.

9 (b) Subsection 4(b) of the Michigan Public Lands Im-
10 provement Act of 1988 (Public Law 100-537) is amended—

11 (1) by inserting “the United States or” after “any
12 person or entity other than” in paragraph (1); and

13 (2) by inserting “the United States or” after “any
14 person or entity other than” in subparagraph (3)(A).

Passed the House of Representatives July 31, 1989.

Attest: DONNALD K. ANDERSON,
Clerk.

Senator GARN. First we will receive testimony on S. 374, and I am very happy to welcome two of my distinguished colleagues to testify. First Senator Reid from Nevada.

STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Senator REID. Thank you very much, Mr. Chairman.

As you know, we are considering legislation today that will designate the Pony Express Trail as a national historic trail under the National Trail System.

In today's age of super speed trains and supersonic planes, the Pony Express may seem outdated, perhaps to some even irrelevant. But the Pony Express was the precursor to many of our modern forms of transportation.

Those dusty trails, some of which are in my state of Nevada, we seek to preserve through the legislation being considered today, and they have a tremendous historical significance that is often overlooked.

We must do our part to increase awareness of the contribution of the Pony Express Trail to the advancement of civilization.

The Pony Express played a critical role in American history, and we must acknowledge that role.

We in America have only a little more than 200 years of history. The speed with which our country has developed and grown in just two centuries necessitates that we hold onto this history and pass it down to future generations.

The history of the Pony Express Trail is rich with significance and interest. The Pony Express galloped into history in 1860 delivering mail and messages to distances far and wide. The Express ran day and night, despite the weather, despite the threat of Indian attacks.

Pony Express couriers were brave men who set the stage for more modern methods of mail delivery and transportation.

The Pony Express route followed the well-known California-Oregon Trail by way of Kansas, Nebraska, Colorado, Wyoming, Utah and Nevada.

Delivery of the mail at this time before the existence of a transcontinental transportation system was dependent solely on the ability of the Pony Express couriers to traverse these trails and carry the messages to their destinations.

These messages ranged from standard correspondence to important proclamations such as the 1861 inaugural address of President Abraham Lincoln.

Our nation's development underwent rapid advances with the completion of the transcontinental railroad, but as freight and passengers traveled on these rails at breakneck speed, it is important to reflect on what came before: the Pony Express, the stagecoaches. These were major inroads in our country's development.

The Pony Express stands as a symbol of the vision, daring and pioneer ingenuity of our nation as it evolved into a modern advanced society.

The Pony Express deserves a permanent place in the catalog of American folklore. By designating the Pony Express Trail as a national historic trail, we will recognize our courageous, resourceful

benefactors who conceived the Pony Express. We will celebrate the role played by the Pony Express in the expansion and evolution of our great country.

Mr. Chairman, I would appreciate it if you and my colleague from Nevada would excuse me. The Nixon impeachment proceeding convenes at 2:15.

Senator GARN. I would be happy to. Thank you very much, Senator.

Senator Bryan.

STATEMENT OF HON. RICHARD H. BRYAN, U.S. SENATOR FROM NEVADA

Senator BRYAN. Thank you very much, Mr. Chairman. I, too, would like to endorse support of this measure. No single enterprise has captured the spirit of the Old West as clearly as the Pony Express. The allure of skilled young riders traversing dangerous terrain in a 24-hour-a-day relay between St. Joseph, Missouri, and Sacramento, California, even today, evokes a sense of wonder for our heritage and for times gone by.

Moreover, although the duration of the Pony Express Service was brief—from April 3, 1860 to October 26, 1861—its role in history is significant. Until the Pony Express began mail from the Midwest to California was carried along the southern route followed by the Overland Mail Stagecoach Company, taking about three weeks. A central mail route would be faster, but needed to traverse largely deserted wilderness, valleys and mountain ranges that were familiar to only the Native Americans who lived there, and to outlaws who hid there from time to time.

The Pony Express established some 10 to 15 mile intervals between 190 express stations. 80 lightweight young riders who averaged only 18 years of age were hired to relay the mail between these stations.

Among the Pony Express riders whose names became part of the western folklore and history were "Buffalo Bill" (William F.) Cody, and "Wild Bill" (James B.) Hickock.

The Pony Express route was established along the stagecoach line as far west as Salt Lake City, but beyond that the trail was forged due west through the Great Basin. The riders traveled day and night through the vast desert terrain and the "badlands" of Nevada and Utah, on through the Sierra Nevada Mountains to Sacramento and ultimately to San Francisco.

Of the 190 Pony Express stations, 28 were in Nevada. They ranged from Antelope Springs in White Pine County, approximately halfway between modern-day Ely and Wendover, through Cold Springs, 59 miles east of Fallon, Sand Springs, 25 miles further east of Fallon, to the Carson Sink, 12 miles south of Fallon, and three other stations until the Nevada terminus of the route was reached at Friday's Station on the Kingsbury grade in Douglas County, Nevada.

By designating this historic path across the West, the National Park Service will be able to coordinate planning and development to mark the trail restoring and preserving the evidence of stations along the route and highlighting for generations to come this brief

but extraordinary venture that contributed so much to the development of the Far West.

The historical significance of the Pony Express, and the trail its brave riders followed is great. Its designation as part of the National Historic Trail System is a fitting commemoration of the fortitude that built the Old West, and I encourage your prompt and favorable action on this legislation.

Mr. Chairman, if I may, I would like to have my full statement included for the record.

[The prepared statement of Senator Bryan follows:]

TESTIMONY OF SENATOR RICHARD H. BRYAN ON
S. 374
THE PONY EXPRESS NATIONAL HISTORIC TRAIL
September 12, 1989

Good afternoon, Mr. Chairman. Today it is my pleasure to testify on behalf of S. 374, legislation to designate the Pony Express National Historic Trail as part of the National Trails System.

No single enterprise has captured the spirit of the Old West as clearly as the Pony Express. The allure of skilled young riders traversing dangerous terrain in a 24-hour-a-day relay between St. Joseph, Missouri and Sacramento, California, even today evokes a sense of wonder for our heritage and for times gone by.

Moreover, although the duration of the Pony Express Service was brief--from April 3, 1860 to October 26, 1861--its role in history is significant.

In today's environment of instantaneous global communication--the nearly ubiquitous fax machine, overnight mail, universal telephone service--we can look back to the Pony Express as the forefather of rapid communication.

Until the Pony Express began, mail from the mid-west to California was carried along the southern route followed by the Overland Mail Stagecoach Company, taking about three weeks. A central mail route would be faster--but needed to traverse largely deserted wilderness, valleys, and mountain ranges that were familiar to only the Native Americans who lived there, and to outlaws who hid there from time to time.

Three visionary men believed that a central mail route was feasible. William H. Russell, Alexander Majors, and William B. Waddell invested nearly \$500,000 in the Pony Express System.

They established 190 Pony Express Stations 10 to 15 miles apart. 80 lightweight young riders who averaged only 18 years of age were hired to relay the mail between the stations. Among the Pony Express riders whose names became part of western folklore and history were "Buffalo Bill" (William F.) Cody, and "Wild Bill" (James B.) Hickok.

The Pony Express route was established along the stagecoach line as far west as Salt Lake City--but beyond that the trail was forged due west through the Great Basin. The riders travelled

day and night through the vast desert, the "badlands" of Nevada and Utah, on through the Sierra Nevada Mountains to Sacramento and San Francisco.

The record Pony Express run was in March, 1861. A copy of President Lincoln's first address to Congress arrived in Sacramento 7 days and 17 hours after leaving St. Joseph.

But, the advance of technology soon doomed the Pony Express.

As the national tension preceding the Civil War became more evident, rapid communication with the Western enclaves became ever more important to Washington. The 250 mile per day progress of the Pony express, although rapid for the times, was too slow to satisfy the needs of the newspapers and policy makers, and the extension of transcontinental telegraph lines continually shortened the Pony Express route.

The first transcontinental telegraph line was completed on October 24, 1861, and the Pony Express ceased business two days later.

Of the 190 Pony Express stations, 28 were in Nevada. They ranged from Antelope Springs in White Pine County (approximately halfway between Ely and Wendover) through Cold Springs (59 miles east of Fallon), Sand Springs (25 miles east of Fallon) to the Carson Sink (12 miles south of Fallon) and through other stations until the Nevada terminus of the route was reached at Friday's Station on the Kingsbury grade in Douglas County.

By designating this historic path across the West the National Park Service will be able to coordinate planning and development to mark the trail, restoring and preserving the evidence of stations along the route, and highlighting for generations to come this brief but extraordinary venture that contributed so much to the development of the West.

The historical significance of the Pony Express and the trail its brave riders followed is great. Its designation as part of the National Historic Trail System is a fitting commemoration of the fortitude that built the Old West, and I encourage your prompt and favorable action on this legislation.

Senator GARN. Certainly. Your full statement will be included in the record.

I thank both of you because this certainly does impact both of our states, and I personally am very supportive of the bill that you and Senator Reid have submitted. So, we thank you for coming.

Senator BRYAN. Thank you very much, Mr. Chairman. If I, too, might be excused.

Senator GARN. Senator Stevens.

The Democrats may have made a mistake in letting me Chair. I miss it after being a chairman for six years. I may not give them the gavel back.

Senator MURKOWSKI. Then we can get this private relief we have been working on.

Senator GARN. Please go ahead, Senator.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Mr. Chairman, thank you very much. I am pleased that the committee has scheduled a hearing on the bill which would give private relief to Leroy Shebal.

This has been a long period of time, so let me ask you to print in full my statement and I will summarize what the situation is.

Senator GARN. Your statement will be printed in full in the record, and I will return the gavel to its proper place.

Senator STEVENS. Thank you.

Leroy applied for the land that is in question under this bill under the Small Tract Act in 1958. He got a lease on the property in 1960. It was a strange circumstance. It was that the Small Tract Act application was not acted upon because it was required to be a square parcel, and this was rectangular in order to accommodate an air strip.

Now, this parcel of land is located on a creek, and it is a creek that both Senator Murkowski and I have visited, a very nice little fishing stream for grayling. I have only been there once, but I was very impressed with what Leroy had done with the property.

In 1965 the BLM changed its regulations and notified Leroy that they could then sell him the property for approximately \$650. At the time his wife had terminal cancer, he had staggering medical bills, and he could not accept the offer.

He went to visit the BLM, and he was assured by Don Leach there in the legal department and Boman Henkley, both of them BLM employees, that the offer would remain open until his financial situation improved.

He was also told that under the BLM regulations BLM would have to give him 30 days' notice if it withdrew the offer that it sent to him in writing. He never got any such notice withdrawing the offer. His wife died in 1970, and he wrote the following year in 1971 accepting the offer to sell the property to him. BLM did not respond to that negligence.

The land was temporarily withdrawn in anticipation of the Alaska Land Claims Settlement Act in 1972, but it was reopened and land was once again available under the Small Tract Act, but

BLM failed to notice Leroy's acceptance letter during that period of time.

In 1973 the BLM did finally respond to Leroy's 1971 letter advising him that the land was withdrawn, and his acceptance of the offer could not be acted on.

During the time that he has had the land he has built a 20 by 30 cabin and built a 1,200 foot landing strip for small-wheeled aircraft.

I think that the problem now is to try and see if we cannot find some way to be just to this man who has had such a long period of time trying to work out his original acceptance of this offer that came to him from our federal Bureau of Land Management.

Let me clarify two or three things about the bill that is before the committee.

We got the description of the land—it is in the bill—from the BLM. We are now told that it does not describe the five acres that the bill describes to be transferred. It describes some 80 acres. That is an error that came from the description provided by the BLM. We only intend to convey the five acres.

We are told now—and this has been discussed with Mr. Shebal—that some entities which would otherwise oppose this bill would not oppose it if it provided for a right of first refusal to the government in the event Leroy decides to sell the property. He has no objection to such a requirement.

The question of what is the fair market value is an interesting question. He accepted the offer, which was approximately \$650. It was not acted upon—not because of his failure, but because of BLM's failure to respond to the acceptance.

There is some question now about what would be the fair market value of the land after so long. As a matter of fact, Mr. Chairman, I think I have had this bill in now for ten Congresses, and I think the committee ought to take note of that. I think this has been in here now since I first came to the Congress. It has been something I have been pursuing. I am very pleased to have a hearing on it finally.

If the Congress had acted on it even at the time I first asked, it would have been a very much lower price than the price would be today.

In any event, Mr. Shebal has indicated that he is willing to pay an adjusted price that is fair. He is further willing to pay the cost of the survey himself, and I think the committee ought to just take note. This is a man that is just resolute that he had a right, that the government failed to respond to him, and he would like the land that he was entitled to, and I would like to see that happen.

We will be pleased to work out the amendments with the committee and committee staff. We have been working with the bill and to work out language to accommodate the three concessions I have indicated that Mr. Shebal is willing to make. But I really hope that finally we will be able to get a bill that will meet his requirements.

This is within a wild and scenic river corridor now, but he has been there all the time, anyway. I mean, he has been there on a lease that has been extended. Everyone has recognized his basic right, and now we would like to confirm that right based upon his original acceptance of the offer that was given to him in writing by

the BLM some 19 years ago. As a matter of fact, it is longer than that. It was 1965 that they made the original offer to sell it to him at approximately \$650.

So, I would think the time has come, in fairness, to convey the property to Mr. Shebal. I would hope the committee would act favorably upon the bill.

[The prepared statement of Senator Stevens follows:]

STATEMENT OF SENATOR TED STEVENS

IN SUPPORT OF S. 620
A BILL FOR THE RELIEF OF LEROY W. SHEBAL

BEFORE THE SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

Tuesday, September 12, 1989

2:00 p.m.

366 Dirksen Senate Office Building

MR. STEVENS: Chairman Bumpers and Senator Wallop, I want to begin by thanking you for scheduling this hearing on S. 620. I first introduced this private relief legislation on behalf of Leroy Shebal back in 1984 during the 98th Congress. It has been reintroduced in every subsequent Congress, but because of other pressing business, it was never possible to schedule a hearing. I deeply appreciate your willingness to consider the measure this time around.

This bill is designed to correct a mistake the Bureau of Land Management made back in the early 70's. It directs the Secretary of the Interior to sell a 5-acre parcel of Federal land along Beaver Creek to Leroy Shebal of North Pole, Alaska.

Leroy filed on this land under the Small Tract Act in 1958 -- a year before Alaska became a state. He was offered a lease on the land in 1960 which included an option to purchase it for its appraised value -- \$200. However, BLM changed the land description Leroy had given them in his 1958 application. Instead of having a parcel of land that ran along the river, it ran right into a mountain side -- no good for a landing strip.

BLM finally corrected the land description, but failed to include the option to purchase in the new lease. Apparently the agency's regulations allowed people to purchase square tracts, but not rectangular tracts like the one Leroy needed to accommodate his airstrip.

In 1965 Leroy was advised the regulations had been changed. Ross Youngblood, BLM's Fairbanks District Land Office Manager advised Leroy by letter that "we may now sell the land if you desire to purchase it. The approximate price of the land you now lease would be \$650. If you wish to purchase the land, a letter requesting this should be sent to the Manager of the Fairbanks District." I have a copy of that letter I would like to submit for the record.

Leroy was unable to accept the offer at the time because his wife had terminal cancer and the medical bills were staggering. However, Don Leach in BLM's Legal Department and Boman Henkley, both from the Fairbanks office told Leroy not to worry. BLM would keep the offer open until Leroy's personal and financial situation improved. They also told Leroy that BLM was required by its regulations to give Leroy 30 days notice if it was going to revoke the offer. But the notice never came. Leroy checked in at the Fairbanks District office periodically and was always told the same thing -- that the offer was still open.

In 1970 Leroy's wife who had helped him build the airstrip and cabin at Beaver Creek succumbed to her illness. He paid her medical bills, stabilized his financial situation, and decided to go on with his life. In September 1971 Leroy sent BLM a letter accepting its earlier offer to sell the land. Leroy thought he would finally gain title to the land where he and his wife had made their lives. An offer had been made. He had accepted that offer. A contract was formed. But the bureaucratic nightmare that was to follow stole his dream away.

Although the land had temporarily been withdrawn in 1969 by PLO 4582 in anticipation of the passage of the Alaska Native Claims Settlement Act, the PLO was revoked in 1971 with enactment of ANCSA. Section 17(d)(1) of ANCSA withdrew the lands from all forms of appropriation under the public land laws for selection by Native corporations for a period of 90 days after enactment -- from December 18, 1971 to March 18, 1971. From March 18, 1971 to June 18, 1971 the lands were available for selection by the State under the Alaska Statehood Act.

Then the lands were once again available for private entry -- and any further withdrawal required an affirmative act by the Secretary of Interior. From June 18, 1972 until September 12, 1972 the land was available for appropriation under the public land laws -- including the Small Tract Act under which Leroy had filed his claim.

But during that period when the land was available, BLM sat on Leroy's acceptance of its offer to sell. It was swamped with problems related to the implementation of ANCSA and just never seemed to get time to process the paperwork. Then on September 12, 1972 -- a year after Leroy had accepted BLM's offer -- the land was withdrawn to study for possible inclusion in the Wild and Scenic River System.

It was not until 1973 -- nearly two years after Leroy accepted BLM's offer -- that BLM even acknowledged his acceptance letter. In a letter dated January 26, 1973, Richard H. LeDosquet, BLM's Fairbanks District Manager, apologized for not responding sooner, but then went on to inform Leroy that his land had been withdrawn for study as a wild and scenic river, so the agency was "not in a position to offer this tract of land for sale." I submit a copy of that letter for the record.

The public land order that prevented BLM from selling the Beaver Creek parcel is no longer in effect. However, the Alaska National Interest Lands Conservation Act of 1980 included Beaver Creek in the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act prohibits the sale of any land within the System.

Mr. Chairman, for more than two decades, Leroy Shebal has operated an environmentally sound guiding operation on Beaver Creek. Even BLM acknowledges that. He has made substantial improvements to the property he leased from the Federal government in reliance on BLM's assurance that he would eventually be able to purchase the property. He has done everything possible to meet the terms of the BLM's offer of sale. It would be a grave injustice if Congress did not authorize the sale of the Beaver Creek property to him.

Both BLM and the environmental community have approached my office to suggest several modifications to the bill. First, they seek to amend the land description to clarify that we are only talking about 5 acres here, not 80 acres as some have thought. Secondly, they would endorse restricting Leroy's patent to provide the government with the right of first refusal upon his death or if Leroy sought to sell the property. That would ensure that the land would remain compatible with its Wild and Scenic River status.

The Bureau has several other concerns including determination of the value of the land and who should bear the cost of a survey. We are in the process of working with them to develop language to accommodate their concerns and will share it with the Committee as soon as those discussions are concluded.

Mr. Chairman, I have visited Leroy's cabin and landing strip and have fished off his beach. He has invested much of his time and resources in developing this remote parcel of property. I urge the Committee to consider the equities of this situation and to act favorably on this bill.

Senator CONRAD [presiding]. Does the Senator have any notion of what the value of that property would be currently?

Senator STEVENS. It is very remote. There is no access to this property at all except by plane to the small landing strip. It has, as I indicated, this small cabin on it, and I think the value of the land is the value of the improvements. It would have no value to anyone other than for the airstrip and the cabin which is on a nice little stream. It has never been appraised, I am informed.

You know, it is one family's retreat into the wilderness, really. A very interesting little place, as a matter of fact, but there is no one else in that area, and I doubt that it has any value other than the value of the improvements which he has put a considerable amount of time and effort into. So, I do not know. I would say roughly \$25,000, \$30,000 would be in the vicinity of the value of those improvements.

Senator CONRAD. Could the Senator share with the committee your sense of why this has not been taken care of in the past? Has there been resistance from any quarter on taking care of this problem?

Senator STEVENS. No. I just think Alaska has had so many land problems and there are so many of these in-holdings that we try to work out, I think many people thought we could work it out over the years, and the BLM has extended the annual right to continue to use the assets. I just think Mr. Shebal has had ultimate faith that eventually we would get around to finding a way to convey the title to him, and he has been very patient.

But, there has been no antagonism here in the committee, per se. There was a time when there was an expression when I served on this committee. People thought if we moved bills like this, that they would end up by being the vehicle for other riders, and for that reason we did not act on them.

At the present time I know of no one, really, who opposes Mr. Shebal's request. I am sure you are going to hear from BLM on a technicality. These are in-holdings in a wild and scenic river corridor, and I think they would prefer to have him have a life estate and give up. He is not willing to do that.

Senator CONRAD. Is there any sense on the part of the Senator that if the committee took this up and gave favorable approval that the committee would face many more of these proposals?

Senator STEVENS. I think this is the only one that I have pending. I do not know about other Senators or Senator Murkowski. I think this is the only one of these that has persisted for so long. Usually we are able to work them out, I want to say. But because of the circumstance of this withdrawal, having been placed on this land before the acceptance of the offer could be acted on by BLM—we have been working with BLM for a series of years trying to see if there was not some way to get them to act without a law being passed.

So, I think we have reached the end of the line, and that is not possible.

Senator CONRAD. So, this would be the only way of getting this situation resolved?

Senator STEVENS. If he is to get title, yes.

Senator CONRAD. I understand that Senator Murkowski had a statement that he wanted to make on this?

Senator MURKOWSKI. Yes, but rather than be redundant, the statement that Senator Stevens made is pretty much along the lines of my own.

I would like to point out that this has been around for a long time. Leroy has really attempted to do everything right. He has been trying to negotiate this for some 18 years with the federal government. The chairman has asked for a comparison value which is certainly a fair question. But, in reality, there is nothing to compare it with because this is an in-holding that is one that is so minuscule in relationship to the whole—there are 364 million acres in the state, less than 1 percent of the state, if you exclude native land, is owned privately in the state, and we are talking about five acres here.

You know, there is just no way to set a value other than to say that the BLM accepted the \$650 back when it was originally proposed, and he has simply attempted to act on it.

What we are faced with, Mr. Chairman, is a situation where the criteria demands that the legislation that is before this committee is simply the last resort. There is no other way to rectify the situation. I think Leroy's case meets the appropriate criteria that has been set, and I think it would be a grave injustice at this time in this man's life to withhold title to the five acres.

I would ask that my entire statement be entered in the record at this time. I would be happy to elaborate any further if there are any questions directed to me.

Senator CONRAD. Without objection.

Senator BUMPERS. Where is the land, Senator? Where is this located?

Senator STEVENS. It is on Beaver Creek. It is north of Fairbanks. It is a small fishing stream and this small tract has a cabin 20 by 30 feet that Mr. Shebal and his wife built before she died, and they built this dirt landing strip. You can land there with a small-wheeled plane. There is nothing within miles of this. This is just an isolated cabin.

When I originally decided to try and see if we could help him, I did fly up there one day and landed there and fished off the bank of that river and caught some nice little grayling. I will tell you, it is good grayling fishing in the spring.

It is his sort of family get-away, as I said. It is a house they have there, and it has a lot of memories for him, and he wants title to it.

Senator BUMPERS. Senator, is Beaver Creek a wild and scenic river?

Senator STEVENS. It is in the wild and scenic river corridor, yes.

Senator BUMPERS. Does the government own some land on both sides of that river for some stretch along there?

Mr. STEVENS. To my knowledge, this is the only in-holding that I know of in the whole area. But, his right goes back to '58, long before anyone ever suggested this be a wild and scenic river corridor.

In '65 he was offered the right to buy the land. His wife was literally deathly ill. It was not until a year after she died that he accepted the offer.

He had visited—and I think BLM would acknowledge this—he visited the BLM office quite often to make sure the offer was still open. He wrote to accept that offer and that, somehow negligently, was not taken up while the land was still open, and it was temporarily withdrawn and then it was open again and then it was permanently withdrawn later as a wild and scenic river corridor for study and then it was made a wild and scenic river corridor.

And all this time he has had a lease on the land, extended annually. Under the circumstances, they knew what his use had been and knew the background of the circumstances. I think you might say the new management down in the BLM, they are interested in getting the title.

Before the chairman came in, I indicated that we have discussed it with Mr. Shebal. He is willing to have a provision in the bill that if he and his family ever decide to sell it, there would be a right of first refusal to the government. But they have no intention of selling it.

Senator BUMPERS. He would not want to use it for anything that would be adverse to the wild and scenic characteristic of the river?

Senator STEVENS. There is no way it could be adverse, as a matter of fact, except for the fact that it is a wild and scenic river. It is not navigable in that area. You cannot land on that stream there. It is not that deep.

The fishing area there is literally—I mean you can pole along it while you are in a boat. You can pole along with your oars. It is a very shallow part of the stream. That is why he did not use the stream to land in as would be normal in the interior there. He had to build a little strip. He built a 1,200 foot strip there. But it is just a place to get away.

Senator BUMPERS. It is not used for commercial purposes?

Senator STEVENS. He is a guide, but I do not believe he uses this as part—I do not know what you would guide for out of there. It is just a little fishing stream. There is not any substantial—you know, it is not a salmon or steelhead stream. It is just a grayling stream.

Senator CONRAD. Any other questions?

[No response.]

Senator CONRAD. If not, thank you, Senator, very much for that presentation.

Next we will hear from the Honorable Howard Nielson on S. 393.

Senator GARN. If I could just say, Mr. Chairman, before Congressman Nielson starts, that the bill which he is concerned with and that I will comment further on when the other panel comes up, this is within Congressman Nielson's district, and he has worked very long and very hard in trying to make this bill possible and become law so those in-holdings can be removed.

STATEMENT OF HON. HOWARD C. NIELSON, U.S. REPRESENTATIVE FROM UTAH

Mr. NIELSON. Thank you, Senator, Chairman Bumpers, and Senator Conrad and Senator Garn. It is a pleasure to be here. I thank you for permitting me to address you regarding a bill which I con-

sider very important. We have worked on it for several years. Senator Garn and I have worked very closely together on this.

This has to do with a National Guard piece of property that has some in-holdings within it and adjacent to it, and we are trying to rearrange the boundaries and trade lands. There has been a multiple trade among the National Guard, the BLM, and other private owners.

Right now it is characterized as hazardous. There is a danger to landowners in gaining access to their property. 105 howitzer shells can overfly private land and have done it. We think this has to be corrected before someone is seriously injured. And the Federal, and perhaps the State, government might be involved in a lawsuit if it does not happen.

The ordnance range at Camp Williams has been used for over 70 years. It is an essential element of realistic live-fire training, not only for the Utah National Guard, but Guard and Reserve units from other states as well.

If properly configured the facility can contribute significantly to the readiness of those units of our National Guard and the National Defense posture while improving the safety to contiguous landowners.

To these ends I introduced H.R. 5224 in the 100th Congress. Because of the lateness of the session and other time constraints, the bill was not heard at that time.

However, the Congressman Ronald Dellums, Chairman of the House Subcommittee on Military Installations, because of his help we were able to obtain approval for purchase of similar high-priority areas within an area adjacent to Camp Williams.

I understand these acquisitions have been made now, and they have considerably enhanced the facility. While that was a necessary first step, we still have to close the loop and get the approval for the rest of it.

So, Senator Garn and I both introduced bills on the same day to do this. Mine is H.R. 988 and his is S. 323. In the negotiation between the National Guard, the Army Corps of Engineers, Bureau of Land Management and Senator Garn and his staff, it has become apparent to me that provisions should be made to hold harmless the Bureau of Land Management in this exchange. Waivers of environmental assessment and so forth should be also established where appropriate.

I might say, Senator Bumpers, the National Guard has asked very little. This is the only military facility I have in my district. They have asked very little. We would like to help them out, and we think they are looking at the safety. They want to square up their land and trade lands which are now in and have a rather unusual pattern to make it more square.

The landholders and the BLM are willing to do this. I know of no opposition. Of course the BLM and the National Guard will speak for themselves, but I would surely hope you would consider it favorably.

[The prepared statement of Mr. Nielson follows:]

STATEMENT OF THE HONORABLE HOWARD C. NIELSON, M.C.
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
OF THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON THE
CAMP W. G. WILLIAMS LAND EXCHANGE ACT OF 1989
TUESDAY, SEPTEMBER 12, 1989

CHAIRMAN BUMPERS, SENATOR WALLOP, MEMBERS OF THE SUBCOMMITTEE, I THANK YOU FOR PERMITTING ME TO ADDRESS YOU REGARDING A BILL I HAVE WORKED ON FOR CLOSE TO THREE YEARS ON THE HOUSE SIDE. PRIVATE INHOLDINGS WITHIN AND ADJACENT TO THE UTAH NATIONAL GUARD WEAPONS RANGE AT CAMP WILLIAMS, WHICH IS SITUATED IN MY CONGRESSIONAL DISTRICT, CAN ONLY BE CHARACTERIZED AS HAZARDOUS. THE DANGER TO LANDOWNERS IN GAINING ACCESS TO THEIR PROPERTY IS REAL. 105 HOWITZER SHELLS OVERFLY PRIVATE LAND. THIS MUST BE CORRECTED BEFORE SOMEONE IS SERIOUSLY INJURED AND THE FEDERAL AND PERHAPS THE STATE GOVERNMENTS ARE INVOLVED IN A LAWSUIT THAT COULD BE MUCH MORE COSTLY THAN RESOLVING THE PROBLEM NOW--AND A SOLUTION IS AVAILABLE WITH LITTLE OR NO OUTLAYS THROUGH THE MEDIUM OF A LAND EXCHANGE.

THE ORDINANCE RANGE AT CAMP WILLIAMS HAS BEEN USED FOR OVER 70 YEARS. IT IS AN ESSENTIAL ELEMENT OF REALISTIC LIVE-FIRE TRAINING NOT ONLY FOR THE UTAH NATIONAL GUARD, BUT GUARD AND RESERVE UNITS FROM OTHER STATES AS WELL AS REGULAR ARMY UNITS. IF PROPERLY CONFIGURED, THE FACILITY CAN CONTRIBUTE

SIGNIFICANTLY TO THE READINESS OF THESE UNITS AND OUR NATIONAL DEFENSE POSTURE WHILE IMPROVING THE SAFTY TO CONTIGUOUS LANDHOLDERS.

TO THOSE ENDS I INTRODUCED H.R.5224 IN THE 100TH CONGRESS. BECAUSE OF TIME CONSTRAINTS AND OTHER CONSIDERATIONS, THE BILL WAS NOT HEARD. HOWEVER, WITH THE HELP OF CONGRESSMAN RONALD DELLUMS, CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON MILITARY INSTALLATIONS AND FACILITIES, I WAS ABLE TO OBTAIN APPROVAL FOR THE PURCHASE OF SOME OF THE HIGH PRIORITY PARCELS WITHIN OR ADJACENT TO THE CAMP WILLIAMS RESERVATION. I UNDERSTAND THAT THOSE ACQUISITIONS HAVE NOW BEEN LARGELY MADE AND HAVE CONSIDERABLY ENHANCED THE FACILITY. WHILE THAT WAS A NECESSARY INITIAL STEP, THE LOOP MUST BE CLOSED. TO DO SO I INTRODUCED H.R.988 IN THIS CONGRESS LAST FEBRUARY. IN NEGOTIATIONS WITH AND BETWEEN THE UTAH GUARD, THE ARMY CORPS OF ENGINEERS, THE BUREAU OF LAND MANAGEMENT AND SENATOR GARN AND HIS STAFF, IT HAS BECOME APPARENT TO ME THAT PROVISIONS SHOULD BE MADE TO HOLD HARMLESS THE BUREAU OF LAND MANAGEMENT IN THE EXCHANGE. WAIVERS OF ENVIRONMENTAL ASSESMENTS, MINERAL REPORTS AND SO FORTH SHOULD ALSO BE ESTABLISHED WHERE APPROPRIATE. FURTHERMORE, THE BOUNDARY OF THE RESERVATION SHOULD BE MODIFIED AND ADJUSTED AS NECESSARY TO MAINTAIN ITS INTEGRITY AND SECURITY.

I BELIEVE THAT THE NEW DRAFT OF THE BILL, BASICALLY WRITTEN BY THE BUREAU OF LAND MANAGEMENT, WILL LARGELY ACCOMPLISH THE OBJECTIVES I HAVE OUTLINED. I URGE THIS SUBCOMMITTEE TO FAVORABLY REPORT THIS BILL TO THE FULL COMMITTEE AT THE EARLIEST

POSSIBLE DATE. I WILL DO MY BEST TO EXPEDITE PROCESSING OF THE BILL IN THE HOUSE. IT MAKES NO SENSE AT ALL TO PERMIT A DANGEROUS CONDITION TO REMAIN WHEN IT CAN BE CORRECTED WITH LITTLE OR NO COST TO THE TAXPAYERS. HERE IS A CLASSIC EXAMPLE OF THE OUNCE OF PREVENTION. ACCORDINGLY, I THINK WE CAN REAP POUNDS OF DEFENSE CAPABILITY WITH INCREASED SAFETY BY ACTING NOW.

THANK YOU FOR YOUR TIME.

Senator BUMPERS [presiding]. Thank you very much, Congressman. What is the status of this bill in the House?

Mr. NIELSON. It is ready for hearings. They are not as efficient as the Senate, so they have not held them yet, but we are pushing them.

Senator BUMPERS. How many acres are involved in your bill?

Mr. NIELSON. 865 acres. I have a map I can show you, and Senator Garn has it. 865 acres, and they are in several pieces.

Senator BUMPERS. Has there been an appraisal on this swap?

Mr. NIELSON. Yes. The terms of the exchange are acceptable to all parties concerned as far as I know.

Senator BUMPERS. I can certainly empathize with you and the people who live there. My hometown is within two miles of Fort Chafee, and a few years ago they landed a 105 howitzer just on the city limits, almost. It is just something that had been waiting to happen, and it is still a very distinct possibility, and nothing was ever done to really correct the problem. One guy just got an extra charge in, and it went a little further than they anticipated it going. So, I am very sympathetic with this kind of legislation.

Senator Garn, do you have any questions?

Mr. NIELSON. Senator, if I may, there are ranchers who run cattle in this area, and they do not like very much having to run their cattle in amongst the military as well. So, they are willing to trade, and BLM is perfectly willing to work with them on their leases.

Senator Garn. I would just add, Senator, that this is one of those really motherhood issues. Camp Williams is a major training area for our National Guard units, and when I first was a Guardsman many years ago, it was primarily used for summer camp and often closed, not occupied at all.

As the Guard and Reserve forces have become more important, it is essentially used all year round, and these in-holdings have created a problem, and this is one of those cases where everybody agrees that it solves their particular problem, not only those who have the in-holdings, and as the Congressman has pointed out, there are cattle and safety problems for them as well as improving the training area for the Utah National Guard.

So, it is a bill that you almost worry about when everybody agrees that it is a good deal. You start to wonder what is wrong if there is no opposition.

Senator BUMPERS. Has the administration or the Defense Department, either one—I assume they are all okay on this?

Mr. NIELSON. The National Guard has checked it out, yes. They are in favor of it. The BLM man is here today, and he will probably comment on that.

It is my understanding that the BLM national office supports the exchange.

Senator BUMPERS. Fine. Thank you very much, Congressman Nielson. Thanks for coming over to be with us.

I guess our next witness is Jerry Rogers, Associate Director of the National Park Service. Mr. Rogers.

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 374

Mr. ROGERS. Mr. Chairman, thank you. It is a great pleasure to be here.

I am here to testify on both S. 1230 and S. 374. What is your pleasure as to which one we deal with now?

Senator BUMPERS. Why do you not take S. 374 first.

Mr. ROGERS. Okay, thank you.

We recommend enactment, Mr. Chairman, of S. 456 in lieu of S. 374. The Pony Express Trail was one of two trails recommended for addition to the National Trail System by Acting Secretary of the Interior Gjelde in a letter to Vice President Quayle dated January 30, 1989. The other was the California Trail.

S. 456, which was introduced by request on February 28, 1989, was identical to the legislation submitted by the Department of the Interior. In addition to designating both the Pony Express and the California National Historic Trails, it makes clear that any private lands needed for either of the trails would be acquired only with the owners' consent.

The Pony Express Trail is an 1,833-mile-long trail from St. Joseph, Missouri, to Sacramento, California. It was in use for 18 months from April 1860 through October 1861. Numerous historic sites are associated with it. Many are already accessible to the public. The Bureau of Land Management in Nevada and Utah has marked and interpreted and provided access to the trail at numerous locations.

The comprehensive management plan for the trail would identify and propose protection and interpretation of high value segments of the trail. Management goals would be to provide reasonable access to all high value segments. Negotiated agreements would be used. Private landowners, historic societies and state or county agencies would be encouraged to provide access outside federal lands and to develop and manage trail resources on non-federal lands.

Assuming that the costs for the Pony Express National Historic Trail are shared with the California National Historic Trail, federal costs for this trail would be estimated at \$251,000 for development, including a portion of the cost of five visitors centers, three interpretive roadside stations, and protection and stabilization of 60 stations and sites identified as significant resources.

Acquisition of approximately 7.1 miles of trail in holdings within existing Federal areas is assumed, with 2.1 miles to be purchased at an estimated federal cost of \$672,000. Acquisition outside of Federal areas will be done by State or local governments.

Federal costs of negotiating access agreements are estimated to be \$100,000, and annual operating expenses, \$79,000. The difference that we recommend would be to include the California National Historic Trail as well.

This 5,665-mile trail was one of several routes. Many cutoffs and 1,873 miles of the California Trail have already been designated as part of the Oregon and Mormon Pioneer National Historic trails. About 1,100 miles of those trails can still be seen in the form of ruts and traces.

The entire system would be authorized under our proposal, including the main trail from Independence, Missouri, to Humboldt Sink, Nevada, together with pre and post-1849 Gold Rush feeder routes and cutoffs. The goals would be to provide reasonable access at all high-value segments using negotiated agreements with local governments for any land governments outside of federal areas.

Federal costs are estimated at \$407,000 for development, \$640,000 for land acquisition of about four miles of trail, \$87,500 for cooperative agreements, and \$87,000 for annual operating expenses. The cost estimates are tentative at this time, Mr. Chairman, but we believe that is what it should come out to be.

The role of the National Park Service would be an administrative and coordinating role. Management of trail resources within federal areas would continue to be the responsibility of each land and managing agency. Funds would be budgeted as necessary by each agency based upon its priorities. We, therefore, urge the enactment of S. 456.

Mr. Chairman, that was a brief summary of my formal statement. With your permission, I would like for the entire formal statement to be entered in the record.

Senator BUMPERS. It is so ordered.

[The prepared statement of Mr. Rogers on S. 374 follows:]

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S.374, TO DESIGNATE THE PONY EXPRESS NATIONAL HISTORIC TRAIL.

SEPTEMBER 12, 1989

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO PROVIDE YOUR SUBCOMMITTEE WITH THE VIEWS OF THE DEPARTMENT OF THE INTERIOR ON THIS LEGISLATION.

WE RECOMMEND THE ENACTMENT OF S.456 IN LIEU OF S.374.

S.374 WOULD AMEND THE NATIONAL PARK TRAILS SYSTEM ACT TO ADD THE PONY EXPRESS NATIONAL HISTORIC TRAIL AS A COMPONENT OF THE NATIONAL TRAILS SYSTEM. THE PONY EXPRESS NATIONAL HISTORIC TRAIL WAS ONE OF TWO TRAILS RECOMMENDED FOR ADDITION TO THE NATIONAL TRAILS SYSTEM BY ACTING SECRETARY OF THE INTERIOR GJELDE IN A LETTER TO VICE PRESIDENT QUAYLE DATED JANUARY 30, 1989. THE OTHER WAS THE CALIFORNIA TRAIL.

THE ACT OF AUGUST 28, 1984, (48 STAT. 1483), ADDED THE PONY EXPRESS TRAIL AND THE CALIFORNIA TRAIL TO THE LIST OF TRAILS TO BE STUDIED FOR POTENTIAL ADDITION TO THE NATIONAL TRAILS SYSTEM. THE NATIONAL PARK SERVICE COMPLETED THE STUDY OF BOTH TRAILS AND DETERMINED THAT IT WOULD BE FEASIBLE AND DESIRABLE TO ADD THEM TO THE SYSTEM. ACTING SECRETARY GJELDE'S LETTER TO THE CONGRESS OF JANUARY 30, 1989, RECOMMENDED THE ENACTMENT OF LEGISLATION TO ACCOMPLISH THAT RESULT.

S.456, INTRODUCED BY REQUEST ON FEBRUARY 28, 1989, IS IDENTICAL TO THE LEGISLATION SUBMITTED BY THE DEPARTMENT. IN ADDITION TO DESIGNATING BOTH THE PONY EXPRESS AND THE CALIFORNIA NATIONAL HISTORIC TRAILS, IT MAKES CLEAR THAT ANY PRIVATE LANDS NEEDED FOR EITHER OF THE TRAILS WOULD BE ACQUIRED ONLY WITH THE OWNER'S CONSENT, A PROVISION NOT FOUND IN S.374. WE BELIEVE BOTH TRAILS QUALIFY FOR DESIGNATION, AND THEREFORE WE RECOMMEND THE ENACTMENT OF THE MORE COMPREHENSIVE MEASURE, S.456. FOLLOWING IS A BRIEF DESCRIPTION OF EACH TRAIL.

PONY EXPRESS NATIONAL HISTORIC TRAIL

THIS IS A 1,833 MILE TRAIL FROM ST. JOSEPH, MISSOURI, TO SACRAMENTO, CALIFORNIA. IT WAS IN USE FOR 18 MONTHS FROM APRIL 1860 THROUGH OCTOBER 1861. ORGANIZED BY PRIVATE ENTREPRENEURS, THE HORSE-AND-RIDER RELAY SYSTEM BECAME THE NATION'S MOST DIRECT AND PRACTICAL MEANS OF EAST-WEST COMMUNICATIONS BEFORE THE TELEGRAPH.

THERE ARE FEW HISTORIC REMAINS OF THE TRAIL, BUT NUMEROUS HISTORIC SITES ARE ASSOCIATED WITH IT. MANY OF THESE SITES ARE ALREADY ACCESSIBLE TO THE PUBLIC. THE BUREAU OF LAND MANAGEMENT IN NEVADA AND UTAH HAS MARKED, INTERPRETED, AND PROVIDED ACCESS TO THE TRAIL AT NUMEROUS LOCATIONS.

THE COMPREHENSIVE MANAGEMENT PLAN WOULD IDENTIFY AND PROPOSE PROTECTION AND INTERPRETATION OF HIGH-VALUE SEGMENTS OF THE TRAIL. DEVELOPMENT OF SUCH A PLAN WITHIN 2 YEARS IS THE NEXT STEP FOLLOWING ENACTMENT OF LEGISLATION DESIGNATING A TRAIL AS A COMPONENT OF THE NATIONAL TRAILS SYSTEM. WHILE THE PLAN WOULD RECOGNIZE A CONTINUOUS LENGTH OF TRAIL, PROTECTION AND INTERPRETATION WOULD BE CONCENTRATED ON THE HIGH-VALUE SEGMENTS.

MANAGEMENT GOALS WOULD BE TO PROVIDE REASONABLE ACCESS TO ALL HIGH-VALUE SEGMENTS ON BOTH FEDERAL AND NON-FEDERAL LANDS. NEGOTIATED AGREEMENTS WOULD BE USED TO SECURE ACCESS ON NON-FEDERAL LANDS. PRIVATE LANDOWNERS, HISTORICAL SOCIETIES, AND STATE OR COUNTY AGENCIES WOULD BE ENCOURAGED TO PROVIDE ACCESS OUTSIDE FEDERAL LANDS AND TO DEVELOP AND MANAGE TRAIL RESOURCES ON NON-FEDERAL LANDS.

ASSUMING THEY ARE SHARED WITH THE CALIFORNIA NATIONAL HISTORIC TRAIL, FEDERAL COSTS FOR THE PONY EXPRESS NATIONAL HISTORIC TRAIL ARE ESTIMATED AT \$251,000 FOR DEVELOPMENT, INCLUDING A PORTION OF THE COST OF FIVE VISITOR CENTERS, THREE INTERPRETIVE ROADSIDE STATIONS, AND PROTECTION AND STABILIZATION OF 60 STATIONS AND SITES NOW TENTATIVELY IDENTIFIED AS SIGNIFICANT RESOURCES. ACQUISITION OF APPROXIMATELY 7.1 MILES OF TRAIL INHOLDINGS WITHIN EXISTING FEDERAL AREAS IS ASSUMED, WITH 2.1 MILES TO BE PURCHASED AT AN ESTIMATED FEDERAL COST OF \$672,000. ACQUISITION OUTSIDE OF FEDERAL AREAS WILL BE DONE BY STATE OR LOCAL GOVERNMENTS. FEDERAL COSTS OF NEGOTIATING ACCESS AGREEMENTS ARE ESTIMATED TO BE \$100,000. ANNUAL OPERATING EXPENSES WOULD BE \$79,000.

CALIFORNIA NATIONAL HISTORIC TRAIL

THE CALIFORNIA TRAIL WAS THE ROUTE OF THE GREATEST MASS MIGRATION IN AMERICAN HISTORY. THE 5,665-MILE TRAIL WAS DEVELOPED OVER A PERIOD OF YEARS, AND CONSISTS OF SEVERAL ROUTES AND MANY CUTOFFS. SOME 1,873 MILES OF THE CALIFORNIA TRAIL SYSTEM HAVE ALREADY BEEN DESIGNATED AS PART OF THE OREGON AND MORMON PIONEER NATIONAL HISTORIC TRAILS.

APPROXIMATELY 20 PERCENT OF THE COMPLETE CALIFORNIA TRAIL SYSTEM, OR ABOUT 1,100 MILES OF TRAIL, CAN STILL BE SEEN IN THE FORM OF RUTS AND TRACES. MOST OF THESE ARE WEST OF CASPER, WYOMING. UNDER OUR RECOMMENDATION, THE ENTIRE SYSTEM WOULD BE AUTHORIZED, INCLUDING THE MAIN TRAIL FROM INDEPENDENCE, MISSOURI, TO HUMBOLDT SINK, NEVADA, TOGETHER WITH BOTH PRE- AND POST-1849 GOLD RUSH FEEDER ROUTES AND CUTOFFS.

AS WITH THE PONY EXPRESS TRAIL, THE MANAGEMENT PLAN WOULD IDENTIFY HIGH-VALUE SEGMENTS. GOALS WOULD BE TO PROVIDE REASONABLE ACCESS TO ALL HIGH-VALUE SEGMENTS, USING NEGOTIATED AGREEMENTS FOR ACCESS TO NON-FEDERAL LANDS AND STATE AND LOCAL GOVERNMENTS FOR ANY LAND ACQUISITION OUTSIDE OF FEDERAL AREAS.

ASSUMING COST SHARING WITH THE PONY EXPRESS, FEDERAL COSTS FOR THE CALIFORNIA NATIONAL HISTORIC TRAIL ARE ESTIMATED AT \$407,000 FOR DEVELOPMENT, \$640,000 FOR LAND ACQUISITION OF ABOUT 4 MILES OF TRAIL, \$87,500 FOR COOPERATIVE AGREEMENTS, AND \$87,000 FOR ANNUAL OPERATING EXPENSES.

MR. CHAIRMAN, THE COST ESTIMATES FOR THESE TWO TRAILS ARE TENTATIVE AT THIS TIME, AND DO NOT TAKE INTO ACCOUNT MORE SPECIFIC PROPOSALS THAT WOULD BE INCLUDED IN THE COMPREHENSIVE MANAGEMENT PLAN FOR EACH TRAIL. THE ROLE OF THE NATIONAL PARK SERVICE WOULD BE AN ADMINISTRATIVE AND COORDINATING ONE. MANAGEMENT OF TRAIL RESOURCES WITHIN FEDERAL AREAS WOULD BE THE RESPONSIBILITY OF THAT LAND MANAGING AGENCY. FUNDS WOULD BE BUDGETED AS NECESSARY BY EACH AGENCY BASED ON ITS PRIORITIES.

WE BELIEVE THESE TWO TRAIL PROPOSALS EMBODY SOME OF THE MOST IMPORTANT ASPECTS

OF AMERICAN HISTORY. AS SUCH THEY SHOULD BE COMMEMORATED AND INTERPRETED AS PART OF THE NATION'S NATIONAL SYSTEM OF TRAILS. WE THEREFORE URGE THE ENACTMENT OF S.456.

THIS CONCLUDES MY PREPARED REMARKS, MR. CHAIRMAN. I WOULD BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

Senator BUMPERS. As I understand it, Mr. Rogers, your objection to S. 374 is that you want both the California Trail and the Pony Express Trail included, is that correct?

Mr. ROGERS. That is correct, Mr. Chairman. We would just like to accomplish the broader objective at one time.

Senator BUMPERS. I just have one question. Are you fairly sure of the historical sites of the Pony Express Trail?

Mr. ROGERS. Mr. Chairman, we are very confident of those sites. A great many of them have already been listed in the National Register of Historic places through state action. I have not been personally to all of them. I have been to some in Utah and Nevada.

Senator BUMPERS. Senator Garn, do you have any questions?

Senator GARN. No, I have no questions.

Senator BUMPERS. Mr. Rogers, thank you very much for your testimony, and thanks for taking the time to come over and be with us.

Mr. ROGERS. Mr. Chairman, is it your pleasure to deal with S. 1230 now or at a later time?

Senator BUMPERS. S. 1230 is fine right now.

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 1230

Mr. ROGERS. Mr. Chairman, at this time I would like to ask your permission to be joined by the Superintendent of Knife River Village's National Historic Park, Mr. Michael Holm, and I would also ask your permission to enter our entire statement in the record, and I will just summarize again.

Senator BUMPERS. Fine. We appreciate that.

Mr. ROGERS. We do not object to the enactment of S. 1230 if it can be amended as we suggest.

Knife River Village is a very important site. I had the pleasure of visiting it only about a month ago. The primary resource at the national historic site is represented by accumulated deposits of Native American cultural materials spanning 3,500 years.

At the time the site was established in 1974, only four village sites from the Plains Indian period were known to exist within the park boundary. Subsequent archeological research, however, has shown that historical and archeological significance of a far greater scope and extent than first envisioned.

The proposed expansion authorized by S. 1230 is intended to incorporate lands which include archeological sites with evidence of the predecessors of the Mandan and Hidatsa people for whom the park was originally established.

The bill would also authorize the acquisition of archeological sites which are now only partially contained within the park boundary, something we did not realize when the park was initially created.

The proposed additions include three parcels, a 329-acre parcel of virgin prairie, land that has never been plowed, containing cemeteries of people who lived in this area during the woodland period prior to the Mandan and Hidatsas. The owner has expressed an interest in selling.

A gravel pit is located on this site, and its operation has already severely affected portions of the archeological sites. Cattle grazing also affects the resources by eroding culturally significant travois trails dating from the Indian occupation which are slowly being obliterated by the cattle's hooves.

Also, a portion of an existing site which lies partially within the current boundary of the site is located in this segment.

A second parcel, 95 acres, owned by the same individual is also recommended for inclusion within the boundary. The owner is not interested, at this time, in selling the land, but he has indicated that he may be interested at some future date.

We would want that land in order to provide for a more manageable boundary. There is no particular threat to park management at this time and no urgency about buying it at an early date.

The third parcel, 41 acres, known as the Running Deer parcel, contains portions of the existing Running Deer site, which is severed by the current park boundary. The owner of this property has expressed no interest in selling the property at the present time but, again, she may be interested at some future date. Our concern is to be in a position to acquire these resources in the event the owner should suddenly decide to sell or in the event they should be physically threatened by adverse uses such as occurred on the above site, a 329-acre parcel with the gravel mining.

A second provision of S. 1230 involves the increase in the development ceiling authorization from the present \$2,268,000 to \$4 million. This increase is needed for two reasons. First, since the time this park was created, we have altered the method by which we track attributable development costs. Certain costs which were not earlier counted against the park's development ceiling now are so counted.

Second, delays of costs, projected costs to rise. The new ceiling called for in S. 1230 should be sufficient to cover currently foreseen expenses within the currently approved planning documents for Knife River.

Mr. Chairman, we recommend three amendments to S. 1230. First, in subsection 1(b), that section incorrectly references the map associated with this boundary expansion. The full reference should read, "Proposed boundary Knife River Indian Villages National Historic Site numbered 468-80, 039, and dated June 1988."

Second, we recommend that subsection 1(c) be amended to provide for a specific monetary increase of \$400,000 for land acquisition, bringing the new ceiling to \$1 million.

Third, we recommend that S. 1230 be amended to provide that implementation of the revised park boundaries shall be contingent on a formal determination by the Secretary based upon any necessary assessment that the properties proposed for addition to the park do not contain any hazardous substance that poses a threat to human life or human health or the environment.

I would be happy to attempt to answer questions, Mr. Chairman. [The prepared statement of Mr. Rogers on S. 1230 follows:]

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 1230, A BILL TO AUTHORIZE THE ACQUISITION OF CERTAIN LANDS FOR ADDITION TO THE KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE IN THE STATE OF NORTH DAKOTA, AND FOR OTHER PURPOSES.

SEPTEMBER 12, 1989

Mr. Chairman, it is a pleasure to appear before the Committee today to discuss S. 1230, a bill which, if enacted, would authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site as well as provide additional development funding authorization for the national historic site.

We would not object to enactment of S. 1230 if amended as we suggest.

Knife River Indian Villages National Historic Site, located in southcentral North Dakota at the confluence of the Missouri and Knife Rivers, was authorized by the 93rd Congress to preserve certain historic and archeological remnants of the culture and agricultural lifestyle of the Plains Indians. The primary resource at the national historic site is represented by accumulated deposits of Native American culture spanning 3,500 years. These village sites are among the best surviving examples of aboriginal inhabitation in the Missouri River Valley environment of the northern Great Plains.

Much of the archeological evidence lies buried beneath the surface, leaving relatively unimpressive features for the untrained eye. At the time the site was established in 1974 only four village sites from the Plains Indian Village Period were known to exist within the park boundary. Subsequent archeological research has shown that the historical and archeological significance is of greater scope and extent than first envisioned.

Five years of intensive archeological research has expanded the resource data base of Knife River Indian Villages NHS tenfold. The proposed expansion authorized by S. 1230 is intended, in part, to incorporate within the national historic site boundary lands which include archeological sites with evidence of predecessors of the Mandan and Hidatsa, for whom the park was originally established, whose lifestyle represents a different form of adaptation to the Plains environment. S. 1230 would also authorize the acquisition of archeological sites which are now only partially contained within the park boundary.

The proposed additions provided for in S. 1230 include three parcels located on the northern end of the existing park. The first, a 329-acre parcel of virgin prairie, contains cemeteries of the people living in this area during the Woodland Period prior to the Mandans and Hidatsas. This specialized site type is not now represented within the present park. The owner has expressed interest in selling to the Service on a "consent of the owner" basis only. This is acceptable to the National Park Service unless some unforeseen action jeopardizes the very existence of these resources. A gravel pit is located on this site, and its operation has already affected portions of the archeological site. Cattle grazing on the parcel poses a long term threat to culturally significant travois trails which are slowly being obliterated. Also included in this proposed addition is a portion of an existing site which lies partially within the current boundary of the park.

Mr. Chairman, we are aware that the 329-acre parcel which overlooks the Missouri River contains a domestic/agricultural dump site which has been used for some time by the current as well as former property owners. Initial observations indicate the potential presence of minor amounts of hazardous substances related to such items as expended auto batteries and household appliances. Prior to any effort to acquire this parcel a more detailed survey would be required in conformance with

Departmental policy to determine the full extent of and potential environmental harm from these sources.

A second parcel, consisting of 95 acres and owned by the same individual as the first parcel, is proposed for acquisition for the purpose of providing assurances that this area, which overlooks the park and proposed additions, does not undergo adverse development contiguous to the park. We are not aware of any threat of adverse development at this time. This parcel, also, has never been tilled but is currently being grazed intermittently. The owner resides on this acreage and is not interested in selling at this time. He has indicated that at some future date he may, however. The prospect of its forming a crenulation along the future boundary if not acquired would be eliminated by its acquisition, thereby serving also to provide for a more manageable boundary. Its current use poses no particular threat to park management at the present time.

The third and final parcel, 41 acres known as the Running Deer parcel, contains portions of the existing Running Deer site which is severed by the current park boundary. This parcel is in part utilized for crops and in part remains brush covered. Here, again, the current owner has expressed no interest in selling this property; however, she has indicated that she may be interested at some future date. Our concern is to be in a position to acquire these resources should the owner suddenly decide to sell or should they be physically threatened by adverse uses, such as occurred on the above-cited 329-acre parcel.

No appraisals have been completed on these properties; however, we estimate that the provisions of S. 1230, if amended as we suggest below, would authorize sufficient funding for full fee acquisition of all three properties, including the purchase of existing site improvements on the 95-acre parcel, mineral interests on all parcels, and sufficient funds for reclamation of the gravel pit operation on the 329-acre parcel.

Mr. Chairman, while we do not object to the revision of the National Historic Site's boundaries to incorporate these parcels, making it possible to acquire them at some future date, we believe it is important to point out that the purchase of these lands would have an extremely low priority measured against the Administration's national land acquisition objectives. As you know, the Park Service has a sizable land acquisition backlog, and as a matter of policy we are attempting to allocate land acquisition funds to projects that serve multiple objectives (e.g. provision of near-urban recreation, protection of threatened and endangered species habitat, wetlands preservation, etc.). Other than their archeological resources, the parcels that would be authorized for purchase by S. 1230 lack attributes that would justify their near-term acquisition. Therefore we would not expect to budget funds for purchase of these properties in the foreseeable future.

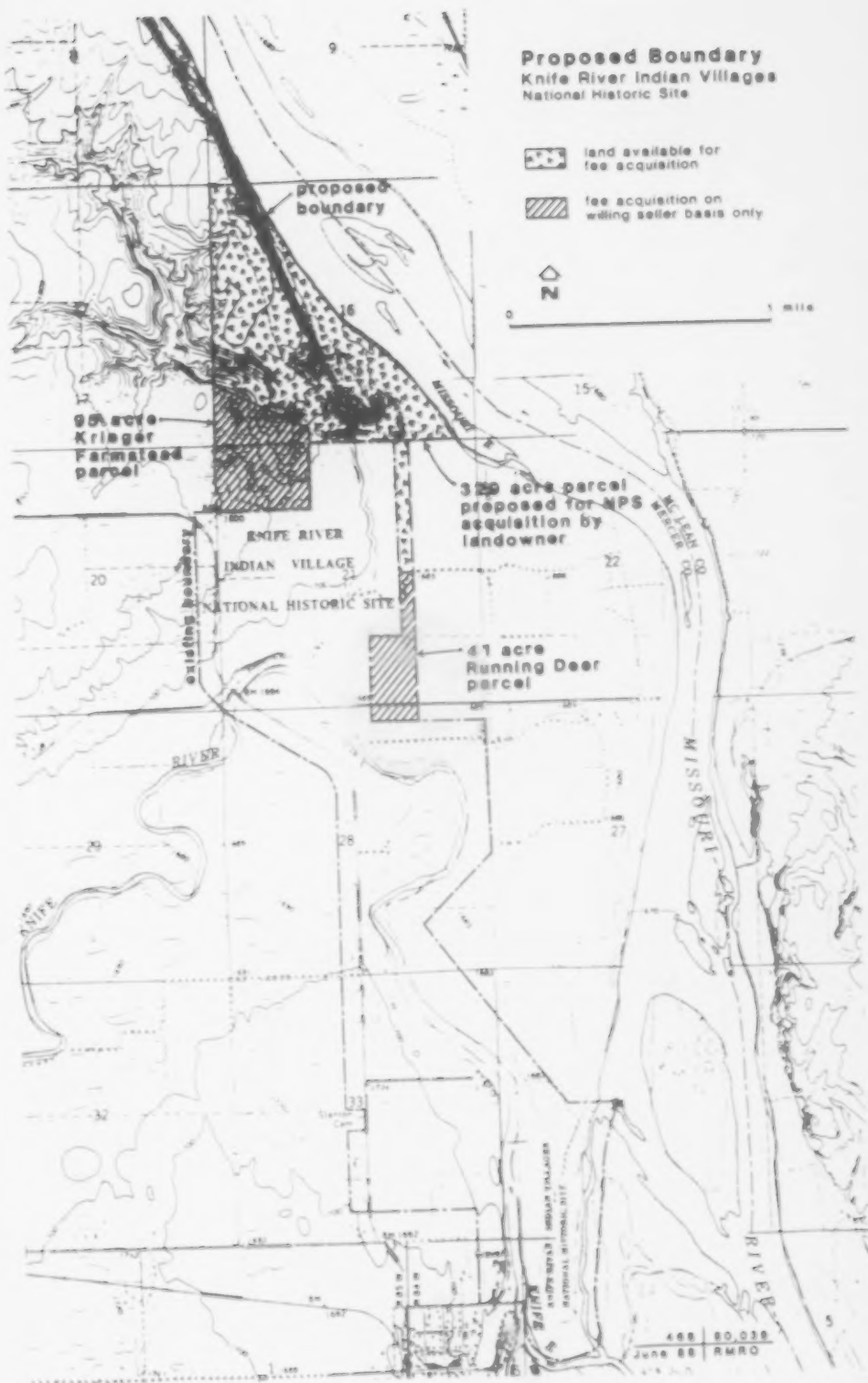
A second provision of S. 1230 involves the increase in the development ceiling authorization for the park from the present \$2,268,000 to \$4,000,000. This increase is needed for two reasons. First, since this park was established we have altered the method by which we track attributable development costs. Certain costs (notably archeological surveys) which were not earlier counted against the park's development ceiling now are, and, therefore, there is need for a somewhat higher ceiling. Second, delays in being able to fund and carry out this development program have caused projected costs to rise. We fully expect that the new ceiling called for in S. 1230 will be sufficient to cover currently foreseen expenses within the approved planning documents for Knife River.

Currently, the national historic site utilizes a converted 1912 farmhouse as its "interim" visitor information center and administrative headquarters. It was revealed some time ago that this facility is located on one of the primary resources that the park was established to protect. In addition, most of the

artifacts uncovered within the park are now stored off site due to the lack of suitable facilities within the park to preserve, protect, and interpret them. Visitors to the site are deprived of this element that was envisioned when Congress authorized the park, namely the educational and interpretive value of these artifacts.

Mr. Chairman, we recommend three amendments to S. 1230. First, subsection 1 (b) incorrectly references the map associated with this boundary expansion. The full reference should read "'Proposed Boundary Knife River Indian Villages National Historic Site' numbered 468-80,039 and dated June 1988." Second, we recommend that subsection 1 (c) be amended to provide for a specific monetary increase of \$400,000 for land acquisition, bringing the new ceiling to \$1 million. Third, we recommend that S. 1230 be amended to provide that implementation of the revised park boundaries shall be contingent on a formal determination by the Secretary, based on any necessary assessment, that the properties proposed for addition to the park do not contain any hazardous substance that poses a threat to human health or the environment. This latter provision is necessary to ensure the Park Service does not inadvertently assume responsibility for mitigation of any serious environmental hazard.

This concludes my testimony on S. 1230, Mr. Chairman. I will be pleased to respond to your questions at this time.



Senator BUMPERS. Where is this dump, Mr. Rogers?

Mr. ROGERS. It is on the edge of the proposed first parcel that we mentioned in the testimony, above the Missouri River. The ranchers and farmers who have lived there for a long period of time have dumped lumber, trash, old implements and that sort of thing over the bank, and we simply would need to have a chance to examine that to make sure that there are not hazardous materials.

Senator BUMPERS. Well, that is certainly a legitimate concern. Let me ask you this. Have you made any kind of an estimate as to what it would take to clean it up?

Mr. ROGERS. I do not think we have a formal estimate, but maybe Mr. Holm would be able to answer that question better than I.

Mr. HOLM. We have not done a formal appraisal, as Mr. Rogers mentioned. Though the area is about 400 linear feet and runs over an embankment for about 100 feet down into the trees, because of the feelings of the landowners, it has just been the last year or two, we have had access to those properties. And we are on very good terms with him now, and our inspection has just been visual.

And we have noted appliances there. And then, just from our knowledge of past farm operations, there are potentials for other things there.

Senator BUMPERS. Senator Garn.

Senator GARN. I have no questions.

Senator BUMPERS. Well, gentlemen, we thank you both very much for your testimony on both S. 374 and S. 1230.

Do you have any additional comments prior to the time this committee considers these, we will be glad to hear any additional thoughts you have on it. I wish you could give us some estimates to what it would cost to clean that site up. Number one, we certainly will amend the bill in accordance with your request, that you have a right to determine whether, what kind of waste material this is, and whether any of it is hazardous and so on.

But, before we pass the bill, we probably need some idea as to what it is going to cost—because, you certainly want to clean it up. Do you not?

Mr. ROGERS. Definitely, we would want to clean it up. Mostly, because it is an eyesore.

Senator BUMPERS. Well, we certainly would need to know some estimate of the cost of that, as well as knowing that there is no hazardous materials there.

Mr. ROGERS. Mr. Chairman, if it is possible to give you some outside figures, we will do our best to do that.

Senator BUMPERS. Thank you very much, both of you.

Mr. ROGERS. Thank you, sir.

Senator BUMPERS. Senator Garn has made a good suggestion here on S. 319 and S. 393. We have Billy Templeton, Acting Assistant Director of Land and Renewable Resources of BLM, here to testify on three bills, including among those S. 393.

Then, we have the Mayor of Salt Lake City, Palmer DePaulis, is that correct, Mayor DePaulis? And Major Robert K. Nelson of the Public Affairs Office, Utah National Guard. Perhaps we could have all three of these gentlemen come up and take a seat here.

Is that what you suggested, Senator Garn?

Senator GARN. Well, I thought, rather than bringing them up individually, we have both S. 319 and S. 393, and also George Leonard from the Forest Service to testify on S. 319. And it might expedite to bring all four of them up, where they are talking about the same bill in some cases.

Senator BUMPERS. That is fine. George, we will include you in this panel too.

Gentlemen, if you will.

Senator GARN. Mr. Chairman, if I just could make a brief statement, as they come up.

Senator BUMPERS. Please proceed, Senator Garn.

STATEMENT OF HON. JAKE GARN, U.S. SENATOR FROM UTAH

Senator GARN. First of all, I certainly do appreciate you and your staff setting up the hearings on what I believe are two important land exchanges for the State of Utah.

I am certainly pleased to recognize Mayor Palmer DePaulis. He has had a very difficult time straightening out Salt Lake City, after I fouled it up when I was mayor. It has taken him a good deal of time to break even, I suppose. And, also, Congressman Howard Neilson was here earlier, and has already testified.

The first bill, S. 319, the Salt Lake City Watershed Improvement Act of 1989, is a practical measure, which will improve the management of Salt Lake City's important watershed areas. And it allows both the city and the Forest Service greater ease in managing lands to the north and east of Salt Lake City.

I suppose I speak with some authority on this issue. Prior to being the Mayor of Salt Lake City, I was the City Water Commissioner, and I know very well the lands personally, that we are talking about. And, although we had an extremely good relationship with the Forest Service, in the management of those lands, it was very difficult, because of the hodge-podge of pieces, here and there.

This is something, that as long as 20 years ago, we started talking about doing this, when I was mayor. Leroy Hooten is here as well, who was very young; I was only a little bit older, when I was Mayor of Salt Lake City. And who runs the Water Department of Public Utilities for Salt Lake City now, but I am sure he would agree, this has been a long, long time in coming. And it will greatly help both the city and the Forest Service, and I would like to pay tribute to Mayor DePaulis and his staff, and to local Forest Service Officials, for their hard work in developing what is a very reasonable solution to a difficult problem. I wish to commend all of them.

And, secondly, I am pleased to lend my support to the substitute to my original bill, S. 393, the Camp W.G. Williams Land Exchange Act of 1989. And I have already made other comments on that. So I would ask the remainder of my statement simply be placed in the record on the Camp Williams issue.

Thank you, Mr. Chairman.

Senator BUMPERS. Without objection, your statement will be entered, Senator Garn.

[The prepared statements of Senators Garn and Hatch follow:]

Statement by Senator Jake Garn
on S. 319 and S. 393
September 12, 1989

Mr. Chairman:

My thanks to you and your able staff for setting up this hearing on what I believe are two important land exchange measures for the State of Utah.

I am pleased to recognize Mayor Palmer DePaulis, who is here to testify in support of the Salt Lake City bill and also Representative Howard Nielson of Utah's 3rd Congressional district, who has worked diligently on the Camp Williams bill. Col. Phillip Peay (Pay) and Major Robert Nelson, are here to testify in behalf of the Camp Williams proposal, as well.

The first bill, S. 319, "The Salt Lake City Watershed Improvement Act of 1989," is a practical measure which will improve the management of Salt Lake City's important watershed areas and allow both the City and the Forest Service greater ease in managing lands to the North and East of Salt Lake City.

I believe I speak with some authority on this bill having struggled along-with Forest Service personnel for many years when I was the Water Commissioner of Salt Lake. We tried to manage these lands which on a map are a scattered mess. What a great help this exchange would have been for me 20 years ago when I struggled to keep clean the water flowing into Salt Lake. Hats off to Mayor DePaulis and local Forest Service officials for their hard work in developing this very reasonable solution.

Secondly, I am pleased to lend my support to a substitute to my original bill, S. 393, "The Camp W.G. Williams Land Exchange Act of 1989." The substitute more accurately reflects the need to remove the inholdings within Camp Williams and to create an environment where the military training demands at the Camp can go forward without concern over these inholdings. The measure will help control public access and safety by resolving another land configuration mess which has existed since 1914. Today's witnesses will discuss these issues in greater detail. In closing, let me say I am pleased with the measures in front of the Subcommittee today. If enacted, they will resolve longstanding administrative problems and provide effective solutions. Again, thank you for providing us with this time today.

*John
Snie*

STATEMENT OF SENATOR ORRIN HATCH BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, SEPTEMBER 12, 1989, REGARDING S. 319, THE SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1989, AND S. 393, THE CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989.

I WOULD LIKE TO GIVE MY STRONG SUPPORT TO BOTH S. 319, THE SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1989, AND THE PROPOSED SUBSTITUTE TO S. 393, THE CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989. BOTH OF THESE BILLS HAVE IMPORTANT IMPLICATIONS TO THE STATE OF UTAH. THEY ARE ATTEMPTS TO PROVIDE MORE REASONABLE AND EFFICIENT LAND MANAGEMENT PRACTICES, AND I BELIEVE THE COMMITTEE SHOULD MOVE QUICKLY IN ADOPTING THE TWO MEASURES.

S. 319, THE SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1989, WILL ALLOW A LAND EXCHANGE BETWEEN SALT LAKE CITY AND THE FOREST SERVICE. THIS PROPOSAL INVOLVES THE EXCHANGE OF 8,940 ACRES OF CITY-OWNED WATERSHED LANDS AND 8,950 ACRES OF NATIONAL FOREST LANDS IN THE DRAINAGE AREAS BETWEEN CITY CREEK CANYON AND PARLEY'S/LAMB CANYON. FOR MANY YEARS THESE LANDS HAVE BEEN MANAGED AS A "CHECKERBOARD" LAND OWNERSHIP PATTERN, WITH BOTH ENTITIES HAVING LANDS SCATTERED THROUGHOUT EACH CANYON. WHILE BOTH THE CITY AND NATIONAL FORESTS LANDS HAVE BEEN MANAGED WITH A COMMON OBJECTIVE IN MIND--TO PROTECT CRITICAL WATERSHED AREAS FROM ADVERSE EFFECTS, THE PROPOSED LAND EXCHANGE WOULD PROVIDE FOR BETTER LAND MANAGEMENT.

THIS LAND EXCHANGE WILL HAVE A SIGNIFICANT BENEFIT FOR BOTH THE CITY AND THE FOREST SERVICE. IT IS MY UNDERSTANDING THAT THE EXCHANGE WOULD RESULT IN A REDUCTION OF ABOUT 65 MILES OF PROPERTY BOUNDARY AND 110 PROPERTY CORNERS. CONSEQUENTLY, THE BOUNDARIES WOULD BE MUCH EASIER TO MANAGE AND MAINTAIN, AND THE ESTIMATED SAVINGS OVER THE NEXT FIVE YEARS WOULD BE APPROXIMATELY \$365,000.

THE INTENT OF S. 393, THE CAMP WILLIAMS LAND EXCHANGE ACT OF 1989, IS TO FACILITATE AN EXCHANGE OF LANDS IN SALT LAKE AND UTAH COUNTY FOR THE BENEFIT OF THE DEPARTMENT OF THE ARMY, THE BLM, AND OTHERS. HOWEVER, A COOPERATIVE EFFORT BETWEEN THE BUREAU OF LAND MANAGEMENT, THE CORPS OF ENGINEERS, AND UTAH NATIONAL GUARD HAS PRODUCED A SUBSTITUTE

SENATOR ORRIN HATCH -- LAND EXCHANGE STATEMENT
SEPTEMBER 12, 1989
PAGE TWO

BILL WHICH BETTER ADDRESSES THE NEEDS OF THE BLM AND THE
DEPARTMENT OF THE ARMY.

I URGE THE COMMITTEE TO ADOPT THIS SUBSTITUTE PROPOSAL. THE PROPOSED BILL WOULD DIRECT THE SECRETARY OF THE INTERIOR TO OFFER SPECIFIED LANDS TO THE OWNERS OF THE PRIVATE LANDS SOUGHT BY THE DEPARTMENT OF THE ARMY FOR USE BY THE UTAH NATIONAL GUARD. ON ACCEPTANCE OF THE OFFER, THE LANDS ACQUIRED BY THE FEDERAL GOVERNMENT WOULD IMMEDIATELY, BY OPERATION OF LAW, BECOME PART OF THE CAMP W.G. WILLIAMS TO BE ADMINISTERED IN ACCORDANCE WITH THE SAME LAWS, REGULATIONS, AND PUBLIC LAND AND EXECUTIVE ORDERS AS ARE APPLICABLE TO OTHER LANDS UNDER THE JURISDICTION OF THE DEPARTMENT OF THE ARMY ADJOINING SUCH ACQUIRED TRACTS. THEY WOULD BE TREATED AS PUBLIC LANDS WITHDRAWN FOR THE DEPARTMENT OF THE ARMY PURSUANT TO EXECUTIVE ORDER 1922 OF APRIL 24, 1914, AND ANY AMENDMENTS OR REVOCATIONS THEREOF.

THE DRAFT BILL WOULD ALSO WITHDRAW SOME 1400 ACRES OF LAND OWNED BY THE UNITED STATES WITHIN THE EXTERIOR BOUNDARIES OF CAMP WILLIAMS WHICH FOR SOME REASON WERE NEVER FORMALLY WITHDRAWN.

Senator BUMPERS. Mr. Templeton, if you will, for the time being, until we finish this panel, would you please just confine your statement to S. 393, and then we will come back to S. 620 and H.R. 2783, after we have finished on this first bill. That way we can excuse the Mayor, and George and the Major here.

Please proceed, Mr. Templeton.

Senator GARN. Excuse me, I think maybe we have got the bill numbers mixed up. Mr. Templeton is testifying on S. 393.

Senator BUMPERS. I am sorry, we are talking about S. 319 here?

Senator GARN. S. 319 is the Salt Lake City Watershed Bill, which the Mayor and others are here to testify on. So, maybe we could go ahead with Mayor DePaulis and George Leonard on S. 319 and excuse them, and then go to S. 393.

Senator BUMPERS. Your point is well taken. Let us start with George Leonard then, on S. 319.

**STATEMENT OF GEORGE M. LEONARD, ASSOCIATE CHIEF,
FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY SUSAN GIANNETTINO, DEPUTY FOREST SUPERVISOR,
WASATCH-CACHE NATIONAL FOREST**

Mr. LEONARD. Thank you, Mr. Chairman.

Mr. Chairman, I am accompanied today by Susan Giannettino. Susan is Deputy Forest Supervisor on the Wasatch-Cache National Forest, which has responsibility for this area.

I think you have before you a copy of two maps of the proposed exchange. One shows the area as under the current jurisdiction of the city and the Forest Service, and the other shows after the proposed exchange. And I think the merits of the proposal are well-illustrated simply by looking at those maps.

This is a good exchange. It rationalizes landownership patterns that are an accident of history, with no relationship to the responsibilities of the city or the Forest Service. There is a great deal of similarity in the lands and to the management objectives of those lands, as administered by the city and the Forest Service.

Since early in this century, those lands have been recognized for their importance for watershed and protection of the watersheds of the City of Salt Lake. And in 1914, the Congress legislatively withdrew the mineral resources on that area from entry in order to protect those resources.

As I say, this is a good exchange. We need to come to this committee, for two reasons: first, because of the statutory withdrawal of the mineral resources, as they affect the federal lands, and also because in acquisition of some of the city lands, we need to extend the National Forest boundary to include those lands. We support this exchange.

We are suggesting some amendments to the legislation, which we think will continue to simplify the landownership patterns. The legislation as introduced, provided for a split estate. This was done because most of the ownership of the mineral resources under the city lands are held by Union Pacific Railroad.

We think that we should exchange where those minerals are federal minerals under federal lands, and those go to the city; the city

ought to acquire the minerals. We avoid further splitting of the estates between the surface and the sub-surface resource.

I think there are some other clarifying things in the legislation that can be done, but overall it is a very good bill and serves a very good purpose.

I would ask that my prepared statement be included in the record, Mr. Chairman.

Senator BUMPERS. Without objection.

[The prepared statement of Mr. Leonard follows:]

STATEMENT OF
GEORGE M. LEONARD, ASSOCIATE CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

Concerning S. 319, the "Salt Lake City Watershed Improvement Act of 1989"

September 12, 1989

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for this opportunity to offer the Department of Agriculture's views on S. 319. The bill would authorize an exchange of lands between the Forest Service and the Salt Lake City Corporation in Utah.

The Department of Agriculture fully supports the concept of this exchange. However, the process proposed in S. 319 is somewhat inconsistent with our current land exchange authorities. We would like to work with you to improve the procedural language while retaining provisions that are needed to resolve certain restrictions in our current authorities that prevent us from completing this particular exchange.

S. 319 would direct the Secretary of Agriculture to convey the surface estate of approximately 8,950 acres of Wasatch National Forest lands to the City of Salt Lake in exchange for the surface estate of approximately 8,940 acres of city-owned land. The exchange would concentrate Forest Service administrative activities in northern Salt Lake County around the Red Butte Research Area, Dale's Ridge, and south of Parleys Canyon. The City's administration would be

concentrated in City Creek and the Mountain Dell drainages. The National Forest boundary would be adjusted accordingly. Protective withdrawals would be changed to conform with the changed landownership. Valid existing rights and uses on both city and Federal land would be protected.

I would like to point out a particular concern we have with this exchange, the creation of split estates on the land. We recognize that the subsurface ownership pattern is complex, and the subsurface of some of the City parcels is already owned by the United States. However, it would generally be preferable in the long run to reduce the number of split estates as much as possible. We have also become aware of additional withdrawals to the Corps of Engineers that must be addressed. We are still studying the best method to resolve these issues and would like to work with the subcommittee to develop suitable language to accomplish this.

This exchange would benefit both the city and the Forest Service by consolidating lands for administrative purposes, thus increasing management efficiency. For example, the exchange would result in a reduction of about 65 miles of property boundary and 110 property corners. This would save about \$360,000 over the next 5 years in managing and maintaining boundaries.

Legislation is necessary to complete this exchange, because some of the parcels of city land lie outside the existing boundaries of the National Forest and cannot otherwise be acquired. In addition, many of the National Forest System tracts are encumbered by a statutory withdrawal.

In summary, although we support this exchange, we have reservations concerning the specification of new procedural requirements that are not consistent with existing Federal statutes designed specifically to address key aspects of exchanges such as this one. We would like to work with you to develop amendments to address our concerns.

I will be pleased to answer your questions or provide additional information.

Senator GARN. Mr. Chairman, before you turn to the Mayor. I neglected to ask unanimous consent to have a statement by Senator Hatch in support of both these Utah Land Exchange Bills inserted in the record.

Senator BUMPERS. Without objection, it will be admitted following your statement.

Mayor, would you go next please.

STATEMENT OF HON. PALMER DePAULIS, MAYOR, SALT LAKE CITY, UT

Mr. DePAULIS. Thank you very much, Senator.

First of all, thank you for inviting us to be a part of this hearing, and for conducting these hearings on S. 319.

I would like to say at the outset that the city was in very good shape, Senator, when you left it.

Senator BUMPERS. Do not let him kid you. We have been told plenty of times how great that city was when he left.

Mr. DePAULIS. Well, we hope it is becoming greater all the time.

Senator GARN. It is still in good hands.

Mr. DePAULIS. Well, it is my privilege to follow.

Senator BUMPERS. Here, if I wanted to run for mayor of Salt Lake City, that is all I heard.

Senator GARN. It is better than being governor of Arkansas.

Mr. DePAULIS. When you were talking about these inholdings here for a while, it kind of harkened me back to some city council meetings that I think both of us have sat through.

Senator GARN. Mayor, just see if they can get the Winter Olympics in Arkansas.

Mr. DePAULIS. That was the opening I was looking for. We are America's choice for the Winter Olympics, and we hope to get them for the United States. So let me enter that into the record too.

It is just a pleasure to be here, and thank you very much, Senator Garn, for your support, and your staff's support to bring this along to this point.

I am also submitting a written statement for the record, Mr. Chairman, and, with your permission I will give that to you.

But I would like to summarize right now. Senate Bill 319, which was introduced by Senators Garn and Hatch, is the product of discussions between Salt Lake City and the Wasatch-Cache National Forest, as to how we can improve our respective land management responsibilities in the canyons of the Wasatch Mountains adjacent to Salt Lake City.

Not long after it was founded in 1847, Salt Lake City began to acquire available private lands within the northern Wasatch canyons to protect the city's water supply. When the Wasatch National Forest was established in 1904, the federal lands within the canyons were reserved to the Forest Service. These actions resulted in a checkerboard ownership pattern of city and national forest lands which persists until today, and that is the checkerboard fashion that you see in the map in front of you.

Although the city and the Forest Service enjoy excellent cooperation and relationship in the management of their interspersed

lands, management capabilities for each entity would be greatly enhanced with consolidated ownership. Senate Bill 319 provides for an acre-for-acre exchange between the Forest Service and Salt Lake City Corporation to consolidate the respective landholdings in these canyons.

The bill also protects existing rights appertinent to the lands, adjust the Forest Service boundary, and extends the existing federal withdrawals to newly acquired national forest lands. The canyons are immediately adjacent to a major metropolitan area. Both the Forest Service and the city provide a variety of developed and disbursed recreational opportunities on their lands. But both entities have protection of the watershed and the valley's water supply as their management priorities.

Under the Utah Constitution, state statute, and city ordinance, Salt Lake City has extraterrestrial jurisdiction to protect the watershed. Under the act of Congress of 1914, the National Forest Service lands were withdrawn for mineral entry and disposal, and the Forest Service was directed to cooperate with the city in the protection of the water supply.

Forest Service and city watershed management cooperation is further assured through a memorandum of understanding signed in 1981. The four canyons that we are speaking of: City Creek, Red Butte, Emigration, and Parleys, comprise 61,858 acres in total. The Federal Government, with management by the U.S. Forest Service, owns 25,122 acres, 41 percent, and Salt Lake City owns 22,824 acres, 37 percent. The remaining 22 percent is privately owned.

The bill as introduced would exchange 8,940 acres of city lands for 8,949 acres of national forest lands. The 9 acres difference is simply the result of exchanging whole parcels and eliminating in-holdings.

Senate bill 319 would only exchange the surface estate, because the city does not own the minerals under most of its lands. The city and the Forest Service have carefully selected lands for exchange to maximize ownership consolidation according to the dominant ownership and special management policies now in effect for each canyon. For instance, the majority of City Creek Canyon is owned by the city, has been annexed and is managed as a city nature area. Under the bill, the Forest Service will withdraw from City Creek Canyon, and Red Butte—under the bill the Forest Service would withdraw then, from City Creek Canyon.

Red Butte Canyon ownership is dominated by the Forest Service and managed as a research nature area with general public access prohibited. The Forest Service would receive all city lands within Red Butte Canyon.

Emigration Canyon has a larger percentage of private ownership and much residential use along the canyon floor. With the exception of the city, the two city-owned parcels at the mouth of Emigration Canyon, the Forest Service would become the sole public owner in the canyon.

In Parleys Canyon——

Senator BUMPERS. Mr. Mayor, I hate to interrupt you at that point, but I just happen to be looking at those two tracks on the map as you alluded to them.

What is the purpose of those two isolated tracks there, at the entrance to Emigration Canyon.

Mr. DEPAULIS. Let me just have Leroy Hooten, our Water Department Director, respond on that one, Senator.

Mr. HOOTEN. Salt Lake City owns what is called the Emigration tunnel. It is a major water supply used by Salt Lake City. We wanted to attain ownership of that specific asset.

Senator BUMPERS. I see.

Mr. DEPAULIS. Although we could have pursued the exchange through the Federal Land Management and Policy Act, FLPMA, we believe that the circumstances warrant a legislative exchange. Both the federal and city lands have watershed protection as a management priority.

The federal lands are withdrawn from mineral entry or disposal. The city likewise prohibits activities which may degrade the watershed or water quality. All lands involved are already publicly owned, will remain under public ownership and not be disposed of, and are managed by each entity in a very similar fashion.

And under watershed management policies, their potential uses are restricted. In effect, they are within an enclosed management system, where equity in the exchange can be achieved by exchanging acre for acre. FLPMA would require a value for value exchange based on appraisals. Expensive appraisals would serve no useful purposes under the circumstances of this exchange. Appraised values are not as important here, as maintaining equity in acres exchanged in consolidating ownership within the management policies of the respective canyons.

We believe that the public interest and the spirit of a value-for-value exchange is protected in this bill. Even if FLPMA were used, legislation would probably be necessary to accomplish the exchange. Some of the lands to be acquired by the Forest Service are outside the forest boundary, and the boundary needs to be adjusted. And the congressional federal withdrawals would preclude an administrative exchange.

The bill only exchanges the surface, however. And I understand the Departments of Agriculture and Interior may prefer to convey minerals along with the surface in order to avoid a creation of a new split estate. Salt Lake City has no objection to receiving the full estate, so long as it is understood that the city does not own the mineral under most of the lands it will convey.

We want to avoid any perception of an imbalance in the exchange itself. If the city received federally withdrawn minerals, we would want to explore management policies to assure continued protection of this watershed from the impacts of the mining industries and activities.

We have learned that the bill needs a minor amendment to accomplish the exchange of 160 acres of national forest lands which were included in Red Butte Canyon withdrawals. I am providing the subcommittee with the suggested amendment language, and that will be part of the official package.

I am aware of no local opposition to the exchange proposal; it has been locally publicized, and comments have been solicited. And in closing, I would like to thank our Utah congressional delegation for

their support of this legislative exchange, and the local Forest Service officials for their cooperation.

And, Mr. Chairman, thank you for conducting the hearings. We are hopeful that this measure can be enacted. And again, I would ask your permission to submit the full statement for the record.

Thank you.

Senator BUMPERS. Without objection.

[The prepared statement of Mr. DePaulis follows:]

Statement By
The Honorable Palmer DePaulis
The Mayor, Salt Lake City, Utah
Before the
Senate Energy and Natural Resources Committee's
Subcommittee on Public Lands, National Parks and Forests
Senator Dale L. Bumpers, Chairman
September 12, 1989

Chairman Bumpers, thank you for conducting hearings on S. 319 and affording me an opportunity to provide comments on behalf of Salt Lake City. I wish to also thank Senator Garn, a Member of this Subcommittee and a former Mayor of Salt Lake City, for helping to arrange this hearing and for supporting the City interest in this land exchange bill.

S. 319, introduced by Senators Garn and Hatch, is the product of discussions between Salt Lake City and the Wasatch-Cache National Forest as to how we could improve our respective land management responsibilities in the northern canyons of the Wasatch Mountains east of Salt Lake City. Salt Lake City strongly supports this bill and urges the Subcommittee to favorably report the legislation.

The bill provides for an acre-for-acre exchange between the Forest Service and Salt Lake City Corporation to consolidate their respective landholdings in these four Canyons. Although the City and the Forest Service enjoy excellent cooperation in the management of their interspersed lands, each entity could greatly improve management opportunities with consolidated ownership.

The bill would exchange 8,940 acres of City lands for 8,949 acres of National Forest lands. The nine acres difference in lands for exchange is simply the result of exchanging whole parcels and efforts to eliminate existing and not create new inholdings. In addition, the bill, as introduced, would only exchange the surface estate.

The four Canyons -- City Creek, Red Butte, Emigration, and Parleys -- comprise 61,858 acres. The Federal Government (with management by the U.S. Forest Service) owns 25,122 acres (41 percent) and Salt Lake City owns 22,824 acres (37 percent). The remaining 22 percent is almost entirely privately owned. Of the 47,946 acres of City and National Forest lands, 30,057 acres would be retained in their current ownership. Nearly all lands are within the boundaries of the Wasatch-Cache National Forest.

Not long after it was founded in 1847, Salt Lake City began to acquire lands within City Creek and the other northern Wasatch canyons to protect the City's water supply. Federal lands within the Canyons were reserved to the Forest Service when the Wasatch National Forest was established in 1904. In 1910, Federal lands within Red Butte Canyon were legislatively withdrawn as part of the Fort Douglas Military Reservation - these Fort Douglas lands subsequently reverted to Forest Service management in 1969.

The Act of Congress of 1914 (Chapter 302, 38 Stat. 714) withdrew Federal lands in all four canyons from mineral entry and disposal to protect the water supply and watersheds for the Salt Lake Valley. The Act also directed the Forest Service to cooperate with the City in the preservation of the water supply. Beyond the lands it owns, the Utah State Constitution and State Statutes provide Salt Lake City extraterritorial rights to protect the watersheds, water quality, and water supply for the people of the Salt Lake Valley.

We have a unique situation in the northern Wasatch Canyons. The Wasatch-Cache National Forest has the highest level of visitor days among all the National Forests. It is immediately adjacent to a major metropolitan area and provides a variety of developed and dispersed recreational opportunities. Salt Lake City also provides dispersed and developed recreational opportunities on lands it owns within these Canyons. But both the City and the Forest Service have as a management priority protection of the watershed and the Valley's water supply - the City under State Statute and City Ordinance and the Forest Service under the Act of 1914 and the 1985 Forest Management Plan. Forest Service and City cooperation in watershed protection and Canyon's land management is further assured through a Memorandum of Understanding signed in 1981.

The current ownership pattern is a checkerboard configuration. Even with cooperation and similar management objectives, the dispersed nature of ownership frustrates management for both the Forest Service and the City because their programs cannot be geographically well focused. In addition, there are management differences canyon to canyon unique to each entity. For instance, City Creek Canyon, with dominant ownership by Salt Lake City, is managed by the City as a nature preserve and city park. Red Butte Canyon, with dominant ownership by the Forest Service, is set aside as a Research Natural Area with general public access prohibited. Attached for the hearing record is a canyon-by-canyon description of current land status, management policies and land uses, and effects of the exchange proposal.

Although we could have pursued the exchange through the Federal Land Management and Policy Act (FLPMA), we believe the

circumstances warrant a legislative exchange. Both the Federal and City lands have watershed protection as a management priority. The Federal lands are withdrawn from mineral entry or disposal. The City, likewise, prohibits activities which may degrade the watershed or water quality. The lands, therefore, are within an enclosed management system which affects their value. They have extremely high value to the City and the Forest Service for purposes of the water supply, recreation, and other public needs. However, they are unavailable for private sale, nearly all water rights are publicly held, and they in effect do not have values comparable to other privately-owned canyon properties. Furthermore, for minerals, the Federal minerals are withdrawn and the City does not own the mineral estate for most of its lands.

FLPMA exchanges require that lands be appraised and be of equal dollar value. If value for value cannot be achieved, the non-Federal party may compensate the Government for the difference. The objective, of course, is to protect the Federal interest. In order to accomplish an equal value exchange under FLPMA, detailed land appraisals must be performed, including mineral values where the mineral estate is involved. This is a time-consuming and expensive process, and in this case, one in which real market values may not be applicable and core sampling for mineral values would be inappropriate within sensitive watershed areas and/or otherwise protected areas including the Red Butte Research Natural Area. We believe these extenuating circumstances make a FLPMA exchange unworkable and that the public interest and the spirit of a value-for-value exchange can be protected through a legislative acre-for-acre exchange.

Both Salt Lake City and the Federal Government would benefit from a consolidation of their respective lands. Expensive appraisals would serve no useful purpose given the watershed protection limitations that apply to all the lands. All lands involved are already publicly owned, will remain under public ownership and not be disposed of, are managed by each entity in a very similar fashion, and under watershed management policies, their potential uses are restricted. Market value would have to be redefined for these lands. The City and Forest Service would exchange similar lands which are and will be used for similar purposes within a protected geographic area. Under S. 319, Forest Service-acquired lands will be included in the withdrawal/watershed management directives of the 1914 Act and City-acquired lands will be managed under the City's watershed management directives and 1988 Watershed Management Plan.

Beyond facilitating the exchange itself, legislation is needed to authorize disposal of the Federal lands which were included in legislative withdrawals and to modify the Forest boundary to include those lands the Federal Government acquires from the City.

The City and the Wasatch-Cache National Forest have carefully selected lands for exchange which would maximize ownership consolidation, contribute toward complete ownership where one of the entities is the dominant landowner or has overriding management policies (City Creek and Red Butte), and would come as close as practicable to an acre-for-acre exchange.

The mineral estate is not proposed for exchange. Most National Forest lands within the northern Canyons include Federal ownership of the mineral estate, although 604 acres of National Forest lands have privately-owned mineral estates. Federally-owned minerals are managed by the Bureau of Land Management. However, under the Act of Congress of 1914, all Federal minerals in the northern Canyons were withdrawn from entry and appropriation under the Federal Mining Laws. When the City acquired its Canyon lands, it usually only acquired the surface estate. It did not acquire the minerals.

It is uncertain what kind of mineral values are found within the northern Canyons. Only a few mining claims were taken to patent before the 1914 restrictions were effective. These claims (now privately-owned land) are no longer worked and experienced little mineral production. Without core drilling and exploration it is unknown to what extent valuable minerals may be present. But experience from the past mining claims would indicate that there are few valuable minerals. Furthermore, because the Federal mineral lands have development restrictions reflecting the area's priority for watershed protection, establishing mineral values would serve little practical purpose.

In order for an acre-for-acre exchange to be balanced, it was determined that the best approach would be to exclude minerals from the exchange. That would mean that the Federal Government would retain ownership of the minerals under the surface conveyed to the City. Likewise, private ownership of minerals under lands conveyed to the Forest Service by the City would remain in privately held.

We want to avoid any perception of an imbalance in this exchange. We are aware, however, that Federal land managers prefer to avoid the creation of new split estates. Salt Lake City is flexible on this issue. We would have no objection to receiving the full estate, so long as it is understood that with the exception of 666 acres, the City does not own the mineral estate under lands it will convey. If the minerals were conveyed with the surface, we would be interested in discussions with the Department of Agriculture and/or Interior on how best to assure that minerals received by the City remain withdrawn from mineral entry when they are no longer under Federal withdrawal.

There are several rights-of-way, easements, and permits which are in effect for lands subject to the exchange. Pipeline, transmission line, and road rights-of-way are provided by both the City and the Forest Service. In addition, there are grazing permits in effect on some of the lands to be exchanged.

S. 319 provides that the Forest Service and the City honor any existing rights or permits in effect at the time of the exchange and provide the holder of the rights or permits with similar rights or permits issued under the authority of the acquiring government. The City currently administers these kinds of rights and permits and would have no difficulty whatsoever in assuming the Federal role for lands it receives.

The legislation provides that the exchange would be exempt from the requirements of NEPA for an environmental assessment or environmental impact statement. While ownership will change, management practices will not change significantly. There is not expected to be any significant impact on the human or physical environment as a result of this exchange. At the local level this has been a public process. We have solicited and received public comments through an initial scoping process, and this hearing has afforded another opportunity for identification of potential concerns. In addition, the Forest Service Plan, which was the subject of an EIS, provides management direction to "achieve the land ownership best suited to managing the Forest resources." The Plan includes guidelines to acquire lands to block up National Forest ownership, reduce the length of boundary lines, or reduce cost of boundary maintenance. This exchange is compatible with those Forest Plan guidelines and I am not aware of local opposition to the exchange proposal.

The bill also provides that lands acquired by the Federal Government will become a part of the National Forest Service System and that the provisions of the Act of Congress of 1914 will be applicable to such lands (they will be withdrawn from entry under the Federal Mining Laws, will be managed for watershed protection, and cannot be disposed of). In addition, the boundaries of the Wasatch-Cache National Forest would be adjusted to reflect the outer perimeters of the Forest Service lands after the acquisition.

In discussions with the Forest Service subsequent to introduction of the legislation, we have learned that the bill needs a minor amendment to accomplish exchange of all of the subject lands. The northern 160.02 acres of Section 18, T.1N., R.2E., lies within the City Creek drainage and would be conveyed by the Forest Service to the City. All of Section 18 was included in the Red Butte Canyon withdrawals (the Pickett Act of June 25, 1910 [36 Stat 847] withdrawing land for the Fort Douglas Military Reservation and the Red Butte Canyon Research Natural Area closure order [Regulation T-9(I) 36 CFR 261.11]). Both of

these withdrawals removed the entire section from "all forms of appropriation". I have attached a suggested amendment to the bill to address this issue.

In closing I would like to thank the Utah Congressional delegation for their support of this legislative exchange and the local Forest Service officials for their cooperation. Thank you, Chairman Bumpers, for conducting this hearing. We are hopeful the measure can be enacted and I would be happy to respond to any questions you may have.

Attachments:

SUGGESTED AMENDMENT TO S. 319
9/12/89

Under Section 3.(b), delete "and" at the end of subsection (2), renumber subsection (3) as subsection (4) and insert a new subsection (3) as follows:

"(3) withdrawals of lands for the Fort Douglas Military Reservation under the Pickett Act of June 25, 1910 (36 Stat 847) and under the Red Butte Canyon Research Natural Area closure order (Regulation T-9[I] 36 CFR 261.111); and"

LANDS MANAGEMENT AND EFFECTS OF LAND EXCHANGES
NORTHERN WASATCH CANYONS OF UTAH
CANYON-BY-CANYON

There are variations in use, management and dominant ownership in the four Canyons of the Northern Wasatch Mountains east of Salt Lake City. The following briefly describes the four canyons, their current ownership, use, management direction, and effects of the proposed Salt Lake City/Forest Service exchange.

City Creek Canyon

Salt Lake City owns 56 percent of the lands in City Creek Canyon and is the dominant land manager. City Creek provides a high quality source of water to downtown Salt Lake City (10 to 15 percent of the total City water supply) and the City manages the Canyon carefully to maintain water quality. The City manages the Canyon as a city park with limited odd/even day vehicular/non-motorized access. City picnic facilities can accommodate 845 persons by reservation. The 29 percent Forest Service ownership in the Canyon is in disconnected blocks mostly in the upper portion of the Canyon. Under the exchange proposal, the City would receive the Forest Service lands in City Creek Canyon consolidating public land management within the Canyon with Salt Lake City. In March 1989, Salt Lake City annexed additional portions of the Canyon. 8.5 miles of the 10 mile long canyon are now within the City boundaries. Salt Lake's long-term management goal is to establish the Canyon as a nature preserve/city park and continue to closely monitor and control access for purposes of watershed/quality water supply protection as provided in the City's Watershed Management Plan and City Creek Master Plan.

Red Butte Canyon

Federal lands within Red Butte Canyon were withdrawn for the Fort Douglas Military Reservation in 1910 and subsequently further withdrawn from public use under the Red Butte Canyon Research Natural Area administrative closure in 1970. The Forest Service owns 83 percent of the lands in the Canyon, with City ownership at 9 percent (508 acres) and private ownership of 8 percent. Under management as a Research Natural Area, public access is prohibited except for research and/or infrequent one-day public access opportunities. Under the exchange, the Forest Service would acquire the City's property to nearly complete consolidated ownership within the Canyon with the Forest Service and further facilitate the Forest Service's Research Natural Area management objectives.

Emigration Canyon

Emigration Canyon has a large percentage of private ownership and considerable residential use. 42 percent of the Canyon is privately owned, much of it subdivided. Of the remainder, 30 percent is owned by Salt Lake City and 28 percent (3,210 acres) is owned by the Forest Service. The exchange proposal would convey City lands (other than a small block at the mouth of the Canyon) to the Forest Service. By establishing the Forest Service as the dominate public land owner in the Canyon and with withdrawals from disposal for National Forest lands in the Canyons, assurances would be established that further disposal of public lands and subsequent subdivision of lands within this portion of the watershed would not occur. The Canyon waters are not currently used for culinary use, but Salt Lake City may at some future date begin to utilize its water rights in this Canyon for the City's water supply. The City proposes to retain a small acreage at the Canyon mouth to facilitate use of the water supply and/or annexation of private lands into the City for provision of water and sewer service to Canyon residents in the future if deemed appropriate.

Parleys Canyon

In Parleys Canyon 42 percent of the lands are in Forest Service ownership (13,994 acres) and 37 percent owned by Salt Lake City (12,207 acres). Private interests own another 20.5 percent (6,810 acres) of the lands, with the remaining 0.5 percent (155 acres) owned by Salt Lake County. The Canyon is an important source of the Salt Lake Valley's water supply and includes the corridor for I-80's crossing the Wasatch Mountains. The upper Canyon and all of the side Canyons, including Dell and Lambs Canyons, are in a checkerboard pattern of Salt Lake City and National Forest lands.

The exchange would consolidate City ownership in Dell Canyon and mostly north of the interstate with two exceptions. Forest Service ownership would be consolidated in the lower and the upper areas of the main Parleys Canyon drainage. In the mid-portion of the Canyon, Salt Lake City owns and manages, the Mountain Dell Dam and Reservoir. Above Mountain Dell Reservoir, in Dell Canyon, Salt Lake City with other water managers is currently building another dam and reservoir, "Little Dell". This reservoir is located within lands which would become Salt Lake City consolidated lands. In addition, on lands that Salt Lake City would retain in Dell Canyon, the City owns and operates camping and picnic facilities as well as a golf course/nordic track skiing facility. All of these recreation facilities would be within the City's consolidated landholdings. The consolidated ownership pattern resulting for the Forest Service would provide it with continuity of ownership from Lambs Canyon into the next Canyon south, Mill Creek Canyon, where the Forest Service owns 81 percent of the lands.

Senator GARN. May I just simply say in closing, Senator Bumpers, that this is a really good exchange. Over the 15 years I have been here there is a lot of exchange that you get involved in where there is controversy and appraisals and all of that.

But having personally been responsible for this watershed for seven years of my life, I am more intimately involved. Nothing really changes except efficiency. And, as the Mayor said, it is already under public lands; you see the map, and it makes no sense to manage it in that fashion even though the cooperation has been good. This is one that I would hope we could move very rapidly on, as well as the Camp Williams, and act this year, because it has been in the works a long, long time. I could not get it done, when I was mayor, so I compliment Mayor DePaulis and the Forest Service for being able to come to this agreement.

Senator BUMPERS. Thank you very much, Senator Garn.

George, does the government own the minerals under all of the acreage that it is transferring?

Mr. LEONARD. I believe so, yes.

Senator BUMPERS. Does the city own all of the minerals on the acreage that it is transferring to the government?

Mr. LEONARD. No, they do not. Most of the city lands, the minerals—the estate is separated, and the city does not have mineral rights.

Senator BUMPERS. Does the Federal Government own some of the minerals on the city lands?

Mr. LEONARD. No.

Senator BUMPERS. We do not own any of the mineral rights that the city has the surface to.

Mr. LEONARD. Well, excuse me, I am informed that we own 640 acres.

Senator BUMPERS. 640 out of the roughly 9,000 acres.

Mr. LEONARD. Yes, right.

Senator BUMPERS. And, does the city own the rest of the mineral rights?

Mr. LEONARD. No, I understand they are with Union Pacific Railway. This is an old railroad grant.

Senator BUMPERS. The railroads own the minerals?

Mr. LEONARD. Yes, the Union Pacific Railroad owns certain specified minerals with the remainder reserved to the United States.

Senator BUMPERS. Now, are you transferring mineral rights to the city?

Mr. LEONARD. Under the bill the mineral rights would remain separate. We are suggesting that the bill be amended, and let the mineral rights under the federal lands transfer so that the Federal Government does not own the mineral rights under lands that are owned by the city.

It is simply a simplification. As a practical matter, we do not think there is a potential for mineral development under any of the ownership. So, that we are talking about rights that probably do not convey any meaningful value to the lands.

Senator BUMPERS. Well, George, I have two concerns about this, and I want to be helpful.

I want to be helpful to the city, and I certainly want to accommodate my colleagues. I have a couple of questions. Number one, we

are avoiding the normal exchange procedures of FLPMA, where appraisals are required under the bill. And we are also transferring mineral rights under a lot of land that all the mineral rights of roughly 9,000 we are transferring to the city, and the city is only giving up perhaps 640 mineral acres to the United States Government.

The rest of the mineral rights will be retained by whoever owns them. Now, that causes me some difficulty, simply because I always worry, not about whether this is a fair exchange on the face of it right now, but I am always afraid somebody is going to discover gold on it next year, and say where were those dumb senators; what in the world were they thinking about when they transferred almost 9,000 mineral acres and got nothing in exchange. And now we find that Salt Lake City is the richest nation in the world, because they found all this gold. How do you answer that?

Senator GARN. Senator, may I interrupt and answer first.

Mr. Leonard is correct in that I do not think we are transferring anything of any value, simply because this is watershed. We not only do not allow mining in the watershed, we do not allow motorized bicycles or anything. We do not allow dogs; we do not allow horses; and the restrictions on the watershed, that I am still in trouble for some of them, that people still want to roam with their dogs up there. We certainly are not going to allow people to open up mines if we do not allow somebody on a trail-bike or something to go up and use these watershed lands.

They are to be protected, as they have been all these years with mineral development in the state. There has never been any question that mineral development would be allowed on these lands even under the city or the Forest Service. We do not allow even on some private land for any homes to be built above the 5,200 foot level, which is the ancient lake-bed of Lake Bonneville. Even if it is private land, they are told you cannot build a house there; you cannot build a cabin; you cannot build anything.

So, I understand your concern, but this is an unusual situation that historically no mining has been allowed in the change of those sub-surface rights; neither governmental agency would intend to allow anybody to explore for mineral development.

Mr. LEONARD. Mr. Chairman, certainly for those lands that are acquired by the city, both the sub-surface and surface estate would be owned by the city. And there is no question that the watershed values would greatly exceed any potential mineral values.

So, I do not think that there is any question that for the lands that are going to be acquired by the city, [that] somebody [has] would have the potential to reap a windfall from those lands. Water is gold in that part of the west. For those lands that are acquired by the Federal Government, the city does not have the capability of transferring those rights, so the status of mineral development on those lands does not really change.

The only question is whether the city has to fight with them, if there was ever any kind of development.

Senator BUMPERS. Is this surface water, Mayor, we are talking about?

Mr. DEPAULIS. This particular watershed is surface water. It is drainage into our reservoirs. We treat some of it directly from the

streams, and it is correct to say that the highest and best use of protection has always been the watershed for Salt Lake City. This is our watershed. We would have no interest whatsoever, in fact, if the mineral rights were conveyed to the city, we would probably immediately enact ordinances so that that could never be mined, or the mineral rights never be used.

Even that was one of the problems with going through the FLPMA process was to go up there in this very sensitive area, and even trench it or drill it to see, for purposes of appraisals, what it might be worth, would be tragic. And such a disturbance of that sensitive area, that could not even permit that. So, it would not be of any—

Senator BUMPERS. Would you have any hesitancy about accepting the ownership of this land with a total ban on development of the minerals?

Mr. DEPAULIS. We would not, Senator. We would have no objections to accepting so as to avoid the split-estate problem. We did not want to present it that way, however, because of the simple perception that somehow the city might, it might be unbalanced in achieving the real end product, which is the better management of the watershed.

Senator GARN. The city did not ask for the transfer of the sub-surface right. It is the Forest Service which made that request. We did not.

Mr. LEONARD. That is right. Mr. Chairman, in terms of the basic question of appraisal of the lands, while we have not had a formal appraisal, the current use of those lands is for watershed protection. The perspective use of those lands is for watershed protection. Both agencies and the general perception of the people on the ground is that given both the current and anticipated use, that when you went for an acre for acre exchange, nine acres difference out of 8,000 acres or so, that in effect you have an equal value exchange. And we have avoided—

Senator BUMPERS. George, you are going to have to say that again.

Mr. LEONARD. The current and planned use for those lands, both the lands that are in federal ownership, and which would go to the city, and the lands that are in the city ownership that would go to the Federal Government, is for watershed protection.

And because of the value and purposes are the same, the general perception of the people on the ground, is that when you equalize the acreage, you are equalizing the values.

Senator BUMPERS. I see. Take the watershed out of the equation. Has anybody ever core drilled any of this area? Do we have any idea of what, if any, minerals there are under the land?

Mr. DEPAULIS. To the best of my belief, Mr. Chairman, I do not believe it has ever been core drilled, or mineral searched. I believe in the mountains around Salt Lake City, the areas that have been identified as mineral rich, have already been identified mostly in the Park City area. Some up in Little and Big Cottonwood Canyon, but to my knowledge, none in this area.

These are, the terrain is more of a foothill kind of, I guess presentation to the city, as opposed to more of a mountainous terrain which is more common as you go south and east from the city.

Senator GARN. I would add, Mr. Chairman, that the areas that were mined are primarily in canyons that we are not talking about, where mining ceased a long time ago, in any event. Over in Cottonwood Canyon, it has been a long, long time since there was any mining, and those are Forest Service lands that are not included. But there is no way I can assure you enough that the lands we are talking about will never be mined.

If they were, they would have a long time ago, when they first started mining in the area. If they had felt other than the Park City area and Kennicott on the west, before this became Forest Service land, or city land, back before the turn of the century, somebody would have dug a hole and tried to take something out of it.

So, I have absolutely no concern, and know of no desire by anyone to try and mine these lands. Again, our restrictions are much more severe than mining allows. Because, to illustrate, and I hate to take your time, but you would appreciate this story—Senator Bumpers always likes good stories.

When Jimmy Carter canceled a lot of the western water projects, a group of western Senators, both Democrats and Republicans, was down at the White House. And Barry Goldwater was one of them, who sat there, saying nothing, for about a two-hour meeting. And finally, President Carter turned to him, and he said, Senator Goldwater, you are very rarely quiet; why have you not said anything? He said, well, I have just been waiting to sum up. Everybody else has been talking endlessly. He said, Mr. President, Georgia is not like the intermountain west. It rains back there, and you have stream-flows that we cannot imagine in Arizona and Utah and Nevada.

And he said, that there are three things that we westerners, regardless of political party, value. We value gold, women and water. And if you want to mess around with our gold and our women, it is all right. But damn you, do not touch our water. So I think that illustrates Mr. Leonard's statement, that water is a lot more precious to us in that valley than any minerals that might lie under that land.

Senator BUMPERS. Are there any mining claims in existence on any of this land you are proposing to transfer?

Mr. LEONARD. No, there is not.

Senator BUMPERS. Can you be sure of that?

There are a lot of mining claims that are probably valid that BLM does not know about.

Ms. GIANNETTINO. We have not done a record-by-record search of every single acre. But to the knowledge of our geologist, who has done some preliminary research, there are no valid claims and no significant resource values.

There was a lease, an oil and gas lease on some of the city property, that expired with no action being taken on it. Our geologist indicates that the primary value that could possibly exist is a type of limestone that could be used to produce cement.

Senator BUMPERS. Mayor, there seems to be quite a bit of private land along Emigration Canyon, and of course there is no way that I can think of that you can prohibit people who own that land privately along that apparently fairly sensitive canyon, that would

keep them from mining or using the land for some other disposition that might be adverse to the preservation of water rights there. Would you agree with that?

Mr. DEPAULIS. It has not been the tendency of anyone who owns land privately to conduct themselves in terms of any kind of mining interest. But we have, Senator—we established last year a watershed purchase fund, through our own Water Department, in which we have been purchasing private lands that people cannot develop, because under our restrictions, as Senator Garn has pointed out, it just cannot be done in those sensitive water areas.

We have been purchasing those lands and taking those into the city and its inventory for this same protection of the watershed. So, to my knowledge nothing of that type of development has occurred or is speculated upon. The kind of residential living is simply one time, probably just cottages that have now become homes; people living close in the stream, because of the aesthetic. It is a beautiful canyon, but that is about the extent of any development. It is just sheerly for residential living.

Senator BUMPERS. Mayor, let me tell you that I am on your side. I believe strongly in preserving pristine water in areas like this. And, I also believe that human need should take precedence over almost every other possible use of land.

I do have to be a steward. I have a high duty and obligation to be a steward over the public domain, and to make sure that the taxpayers generally are not—I do not want to say ripped off, because that is not the right term here. But that this whole thing is fair, in that everybody's rights are fully protected. That is my whole job.

As I said earlier, I certainly want, and always like to accommodate my distinguished colleagues from the great State of Utah; you are extremely well-represented here. So, I do not know. We will talk about this with the staff after the hearing, and I feel assured that we will be able to, if there are any real problems, work it out.

Now, George, I must say, knowing what I do about the 1872 mining law, I certainly may want to just abrogate any existing claims that may be there. We have a right to do that. If I had my way, I would abrogate virtually every claim in the country. But you know, I do not want us to get blind-sided here, by somebody coming in and saying, I happen to have a couple of thousand acres of mining claims there, because you have not done research at the courthouse to make sure that there are no filed claims there.

Up until when, 1970, all you had to do was file at the courthouse. You did not have to file with BLM; I forget what the date was.

Mr. LEONARD. Remember that since 1914, substantial portions of this area have been removed from mineral entry.

Senator BUMPERS. Since 1914?

Mr. LEONARD. Since 1914. So the concern about the importance of the watershed versus minerals is longstanding.

Senator BUMPERS. Fine.

Let us see, George, were you going to testify on any other legislation? No, you were not, were you. Okay.

Mr. DEPAULIS. Senator, I would just like to say in conclusion, we appreciate your support and welcome that. And we feel confident we can solve any questions that you might have, and we would cer-

tainly not object if that entry were made. We also want to assure you, the only gold we are going for is in 1998. So thank you.

Senator BUMPERS. Well, you have my support on that too. Unless there is some town in Arkansas trying to get the Winter Olympics, which I doubt.

Senator GARN. I invited him to Center Ski Cap, but he has got two bad knees.

Senator BUMPERS. There are a lot of people think there are other parts of my anatomy afflicted.

Mr. DePAULIS. So you can come and rest them in Utah, and watch the skiers.

Senator BUMPERS. Thank you very much, Mayor, you have made a fine witness, and we appreciate your coming out to be with us today. George, you are excused also.

Billy, if you will, why do not you start off with your testimony. Let us take S. 393 first.

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 393

Mr. TEMPLETON. Very well, sir.

I appreciate the opportunity to appear today on S. 393, the Camp W.G. Williams Land Exchange Act of 1989. S. 393 would direct the Secretary of the Interior to revoke applicable public land orders or withdrawals; to terminate classifications and take any other actions that he determines necessary to complete, within two years, an exchange of certain lands in Salt Lake and Utah counties, Utah.

The Secretary would be authorized to take this action, notwithstanding Executive Order 1922 of April 24, 1914, and any other order, law or court order.

We support the purpose of S. 393, but find that it does not address the necessary issues that may arise or accomplish in the desired purpose. The problem that generated the legislation is the presence of private inholdings both in and adjacent to Camp Williams, an active military reservation. These lands may have become littered with unexploded munitions. This poses a serious safety hazard to civilians entering the lands.

The Department of the Army seeks to acquire these lands to improve its operations and reduce public safety problems. The Department of Army National Guard Bureau has sufficient funding to purchase the private lands, and most of the purchases have been made.

However, there are three private landowners who will not sell their land, but they are willing to trade for other lands in that same area. There is sufficient acreage of withdrawn public land outside Camp Williams boundary to accommodate these landowners in an exchange. However, exchanges processed under our current authority require environmental assessments, mineral reports, hazardous materials evaluations and other actions which would delay the transfer to the Department of the Army by a considerable amount of time, and would not provide the assurance against

liability that the Department of the Interior or the Bureau of Land Management, as a conduit for the exchange, would require.

For these reasons, our Utah State and Salt Lake District Offices working with the Army Corp of Engineers and the Utah National Guard, have developed a draft bill that we believe would meet the needs of all the agencies. In discussions with Senate staff, it was suggested that at this hearing we discuss the draft bill, which has been reviewed and approved by all interested parties, and I believe by proponents of S. 393.

The proposed bill would direct the Secretary of the Interior to offer specified lands to the owners of the private lands sought by the Department of the Army for use by the Utah National Guard. On acceptance of the offer, the lands acquired by the Federal Government would immediately, by operation of law, become part of Camp W.G. Williams, to be administered in accordance with the same laws, regulations and public land and executive orders as are applicable to the other lands under jurisdiction of the Department of the Army, adjoining such acquired tracts.

They would be treated as public lands withdrawn for the Department of the Army by Executive Order 1922 of April 1914, and any amendments or revocations thereof. By this legislative transfer and withdrawal, many administrative steps and much time delay are avoided.

The draft bill would also withdraw some 1,400 acres of land owned by the United States within the exterior boundaries of Camp Williams, which for some reason were never formally withdrawn and included with Executive Order 1922 of April 1914. By this bill, they would be.

The draft bill also partially revokes Executive Order 1922, to eliminate specific lands, on certification by the Secretary of Army, and acceptance by the Secretary of the Interior, that the lands to be returned to public domain do not contain hazardous materials or substances.

The Secretary of the Army would be required to hold the Secretary of the Interior harmless for any liability associated with any hazardous materials or substances that were placed on the lands before they returned to public domain status.

Also, any liability accruing to the United States as a result of the acquisitions of land authorized by the bill would vest in the United States Department of the Army. In no event would any liability vest with the Department of the Interior. A copy of the draft bill is attached to this statement. We believe it addresses all of the issues and problems that might arise in the proposed exchange of land for the benefit of Camp W.G. Williams.

I would ask that this statement be added to the record, if you would please. This completes my prepared statement, and if I can answer questions I will.

Senator BUMPERS. Thank you very much.

[The prepared statement of Mr. Templeton follows:]

SEP 12 1989

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR FOR LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 393, A BILL ENTITLED THE "CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989".

I appreciate the opportunity to appear here today to discuss S. 393, the proposed "Camp W. G. Williams Land Exchange Act of 1989".

S. 393 would direct the Secretary of the Interior to revoke applicable public land orders or withdrawals, to terminate classifications and to take any other actions that he determines necessary to complete, within two years, an exchange of certain lands in Salt Lake and Utah Counties, Utah. The Secretary would be authorized to take this action notwithstanding Executive Order No. 1922 of April 24, 1914, and any other order, law, or court order.

We support the purpose of S. 393 but find that it does not address necessary issues that may arise in accomplishing the desired purpose.

The problem that generated the legislation is the presence of private inholdings both in and adjacent to Camp Williams, an active military reservation. These lands may have become littered with unexploded munitions. This poses a serious safety hazard to civilians entering the lands. The Department of the Army seeks to acquire these lands to improve its operations and reduce public safety problems.

The Department of the Army National Guard Bureau had sufficient funding to purchase the private lands, and most of the purchases have been made. However, there are 3 private landowners who will not sell their land, but are willing to trade it for other land in the area. There is sufficient acreage of withdrawn public land outside the Camp Williams boundary to accommodate these landowners in an exchange. However, exchanges processed under our current authority require environmental assessments, mineral reports, hazardous materials evaluations and other actions which would delay the transfer to the Department of the Army for a considerable amount of time and would not provide the assurance against liability which the Department of the Interior or the Bureau of Land Management, as the conduit for the exchange, would require.

For these reasons, our Utah State and Salt Lake District offices working with the Army Corps of Engineers and the Utah National Guard have developed a draft bill that we believe would meet the needs of all the agencies. In discussions with Senate staff it was suggested that at this hearing we discuss the draft bill which has been reviewed and approved by all the interested parties and I believe by the proponents of S. 393.

The proposed bill would direct the Secretary of the Interior to offer specified lands to the owners of the private lands sought by the Department of the Army for use by the Utah National Guard. On acceptance of the offer, the lands acquired by the Federal government would immediately, by operation of law, become part of the Camp W. G. Williams to be administered in accordance

with the same laws, regulations, and public land and executive orders as are applicable to other lands under the jurisdiction of the Department of the Army adjoining such acquired tracts. They would be treated as public lands withdrawn for the Department of the Army pursuant to Executive Order 1922 of April 24, 1914 and any amendments or revocations thereof.

By this legislative transfer and withdrawal, many administrative steps and much time delay are avoided.

The draft bill would also withdraw some 1400 acres of land owned by the United States within the exterior boundaries of Camp W. G. Williams which for some reason were never formally withdrawn and included within Executive Order 1922 of April 24, 1914. By this bill they would be.

The draft bill also partially revokes Executive Order 1922 to eliminate specific lands on certification by the Secretary of the Army and acceptance by the Secretary of the Interior that the lands to be returned to the public domain do not contain any hazardous materials or substances. The Secretary of the Army would be required to hold the Secretary of the Interior harmless for any liability associated with any hazardous materials or substances that were placed on the lands before they were returned to public domain status. Also, any liability accruing to the United States as a result of the acquisition of land authorized by the bill would vest in the United States Department of the Army. In no event would any liability vest in the Department of the Interior.

A copy of the draft bill is attached to this statement. We believe it addresses all the issues and problems that might arise in the proposed exchange of land for the benefit of Camp W. G. Williams.

This completes my prepared statement. I will be pleased to answer questions.

A B I L L

Entitled the "Camp W. G. Williams Land Exchange Act of 1989".

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Camp W. G. Williams Land Exchange Act of 1989".

SECTION 2. Exchange

Notwithstanding any other provision of law, the Secretary of the Interior shall offer to exchange lands shown on a map entitled "Proposed Exchange for Camp W. G. Williams, Utah, August 25, 1989", to the owners of tracts of private lands shown on said map. If the owners of any or all of the tracts accept the offer within two years of the date of enactment of this act, then the Secretary of the Interior shall convey to such owner or owners or their designee title to the designated land in exchange for lands simultaneously conveyed by the non-Federal owners to the United States for use by the Department of the Army. The land acquired by the Federal government in the exchange shall immediately become a part of CAMP W. G. WILLIAMS and shall be administered by the Department of the Army in accordance with the same laws, regulations, public land orders or executive orders applicable to the lands under the jurisdiction of the Department of the Army adjoining such acquired tracts and such acquired tracts shall be treated for all purposes as public

lands withdrawn for Department of the Army pursuant to Executive Order 1922 of April 24, 1914 and any amendments, modifications or revocations thereto, heretofore, or hereafter made.

SECTION 3. Maps and Legal Descriptions.

(a) As soon as practicable after the date of enactment of this act the Secretary of the Interior shall publish in the Federal Register a legal description of the lands proposed to be exchanged by this act and shall file such maps and the legal descriptions with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular affairs of the United States House of Representatives.

(b) The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SECTION 4. Addition of Lands to Camp W. G. Williams

(a) The public lands and any other lands which are heretofore or hereafter owned by the United States within the exterior boundaries of Camp W. G. Williams that are shown on the map entitled "Proposed Exchange for Camp W. G. Williams, Utah, August 25, 1989", are hereby withdrawn from settlement, sale, location and entry under the general land laws, including the mining

laws, but not the mineral leasing laws, and reserved for Department of the Army and added to the lands withdrawn pursuant to Executive Order 1922 of April 24, 1914 and the lands reserved in this section shall be subject to any amendments, modifications or revocations thereto heretofore or hereafter made.

(b) Notwithstanding any other provision of law the Secretary of the Interior is hereby authorized to acquire lands within the present exterior boundaries of Camp W. G. Williams or lands that are adjacent to or within the reasonable proximity of Camp W. G. Williams as such boundaries are now or hereafter may be constituted, so long as acquisition of lands adjacent to or within the reasonable proximity to Camp W. G. Williams does not equal or exceed five thousand acres, for the explicit purpose of addition to Camp W. G. Williams. Such acquisitions shall be by exchange or donation only.

SECTION 5. Partial Revocation of Executive Order 1922

Notwithstanding any other provision of law, Executive Order 1922 of April 24, 1914 is partially revoked, insofar as it affects specified lands shown on the map entitled "Proposed Exchange for Camp W. G. Williams, Utah, August 25, 1989", upon the appropriate certification by the Secretary of the Army and the acceptance of such certification by the Secretary of the Interior, that the lands to be returned to the public domain do not contain any hazardous materials or substances as defined by applicable Federal law. The Secretary of the Army shall cause to be performed all inspections and other actions necessary to make such a certification and shall report his findings to the

Secretary of the Interior within one year of the enactment of this Act. Thereafter the Secretary of the Army shall hold harmless the Secretary of the Interior for any liability associated with any hazardous materials or substances as defined by applicable Federal law that were placed upon or reasonably appear to have been placed upon the land prior to the return of the subject lands to public domain status.

SECTION 6. Liability

Upon the acquisition by the United States of any lands or interest in land pursuant to this act, any liability accruing to the United States as a result of such acquisition shall be deemed to vest in the United States Department of the Army. In no event shall liability vest in the Department of the Interior.

STATEMENT OF MAJ. ROBERT K. NELSON, PUBLIC AFFAIRS OFFICER, UTAH NATIONAL GUARD, ACCOMPANIED BY COL. PHILLIP PEAY, CHIEF OF STAFF, UTAH NATIONAL GUARD, AND MICHAEL BAIN, REAL ESTATE MANAGER, U.S. ARMY CORPS OF ENGINEERS

Major NELSON. Accompanying me are Colonel Phillip Peay, chief of staff, and former director of Engineering and Housing for the Utah National Guard, and Mr. Michael Bain, who is a real estate specialist with the U.S. Army Corps of Engineers, Sacramento District.

A brief background statement will demonstrate the need, I think served for this legislation. The lands at Camp Williams were withdrawn from public domain in 1914 by Executive Order 1922. A number of privately held parcels were surrounded by the withdrawn lands. Since 1914, training pressures on the private lands at Camp Williams have grown.

During World War II, the Corp of Engineers purchased more than 2,200 acres of privately held land. During the last decade training demands at Camp Williams have grown dramatically. Once a site for weekend training of National Guard units, Camp Williams is now a very active year-round training site, which supports increasingly heavy training requirements of the National Guard and reserve soldiers and frequently active Army units.

In 1978, soldier training days at Camp Williams totaled 76,000. This number had grown to 350,000 annually by 1988. Privately held lands in and adjacent to Camp Williams have become progressively more heavily affected by the growth of military activity on the reservation. It becomes more difficult every year to guarantee landowner access and safety. In 1984, a 12-year old boy was killed while trespassing on Camp Williams, by unexploded ordinance. The reservation was officially closed to the general public at that time, and a policy decision to acquire all remaining private lands within Camp Williams' boundaries was reenforced. Since then the State of Utah has purchased approximately 1,500 acres of privately owned lands inside Camp Williams. The Corp of Engineers has purchased approximately 670 additional acres.

These lands were acquired on a willing-seller-basis; three remaining private landowners with four critical parcels were unwilling to sell, but they are willing to trade for other land in the area and there is sufficient acreage of withdrawn public land outside the Camp Williams boundary to accommodate these landowners in an exchange.

Completion of this exchange will permanently resolve significant potential conflicts between the military and the public and dramatically reduce the likelihood of situations which increase the potential of government liability. During 1984 and 1985 the entire Camp Williams reservation, except active impact areas were, but including privately held lands inside the reservation, were subjected to ground sweeps in search for unexploded ordinance. These sweeps were comprehensive and effective in eliminating all hazards which were located. Consequently, it is unlikely that either lands to be acquired or lands to be relinquished or exchanged, harbor additional hazards.

We support the objectives of S. 393, but believe it does not insure the accomplishment of the desired purpose. A cooperative effort between the Bureau of Land Management, the Corp of Engineers and the Utah National Guard, has produced a substitute bill, which we believe meets the objectives of the Department of Army and the BLM. The draft bill has been reviewed and approved by all interested parties and by the proponents of S. 393.

The proposed bill would direct the Secretary of Interior to offer approximately 839 acres of specified lands to owners of approximately 864 acres of private lands sought by the Department of Army for use by the Utah National Guard. On acceptance of the offer, the lands acquired by the Federal Government would immediately, by operation of law, become part of Camp W.G. Williams to be administered in accordance with the same laws, regulations and public land and executive orders as are applicable to other lands under the jurisdiction of the Department of Army, adjoining such acquired tracts. They would be treated as public lands withdrawn for the Department of Army pursuant to Executive Order 1922 of April 24, 1914, and any amendments or revocations thereof.

The proposed substitute bill would also withdraw approximately 1,473 acres of federal land within the exterior boundaries of Camp W.G. Williams which have not yet been withdrawn, and include this land within executive order 1922. The proposed substitute bill would also partially revoke Executive Order 1922 to eliminate approximately 1,490 acres of specific lands from withdrawn status and return them to the public domain. The Secretary of the Army would certify to the Secretary of Interior that these lands contain no hazardous material or substances, and would hold the Secretary of Interior harmless from any liability connected with any hazardous materials placed on the lands before they were returned to the public domain. Also, any liability resulting from the acquisition of private lands would rest with the U.S. Department of Army.

A copy of the substitute bill is attached to the statement, and we would encourage your adoption of the bill.

This completes my prepared statement, sir. If you have questions, I would be pleased to answer them. Colonel Peay and Mr. Bain are also here, and can answer specific questions should the need arise.

[The prepared statement of Major Nelson follows:]

STATEMENT OF MAJOR ROBERT K. NELSON, PUBLIC AFFAIRS OFFICER, UTAH NATIONAL GUARD, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 393, A BILL ENTITLED THE "CAMP W.G. WILLIAMS LAND EXCHANGE ACT OF 1989".

Thank you for inviting me to appear here today to discuss S. 393, the proposed "Camp W.G. Williams Land Exchange Act of 1989". Accompanying me are COL Phillip Peay, Chief of Staff and former Director of Engineering and Housing, Utah Army National Guard, and Mr. Michael Bain, Camp Williams real estate manager, Sacramento District, U.S. Army Corps of Engineers.

A brief background statement will demonstrate the need for this legislation.

The lands at Camp Williams were withdrawn from public domain in 1914 by Executive Order 1992. A number of privately held parcels were surrounded by the withdrawn lands.

Since 1914, training pressures on private lands at Camp Williams have grown. During World War II, the Corps of Engineers purchased more than 2,200 acres of privately held land.

During the last decade, training demands at Camp Williams have grown dramatically. Once a site for weekend training of National Guard units, Camp Williams is now a very active year-round Training Site which supports increasingly heavy training requirements of National Guard and Reserve soldiers and frequently, Active Army units. In 1978 soldier training days at Camp Williams totaled 76,000. This number had grown to 350,000 annually by 1988.

Privately held lands in and adjacent to Camp Williams have become progressively more heavily effected by the growth of military activity on the reservation. It becomes more difficult every year to guarantee land owner access and safety. In 1984 a 12 year-old boy was killed, while trespassing on Camp Williams, by unexploded ordinance. The reservation was officially closed to the general public at that time and the policy decision to acquire all remaining private lands within Camp Williams' boundaries was reinforced.

Since then, the State of Utah has purchased approximately 1500 acres of privately owned lands inside Camp Williams. The Corps of Engineers has purchased approximately 670 additional acres. These lands were acquired on a "willing-seller" basis. Three remaining private land owners with four critical parcels were unwilling to sell, but are willing to trade for other land in the area. There is sufficient acreage of withdrawn public land outside of the Camp Williams boundary to accommodate these landowners in an exchange. Completion of this exchange will permanently resolve significant potential conflicts between the military and the public and dramatically reduce the likelihood of situations which increase the potential of government liability.

During 1984 and 1985, the entire Camp Williams reservation except active impact areas, but including privately held lands, was subjected to ground sweeps in the search for unexploded ordinance. These sweeps were comprehensive and effective in eliminating all hazards which were located. Consequently, it is unlikely that either lands to be acquired or lands to be relinquished or exchanged harbor additional hazards.

We support the objectives of S. 393 but believe it does not ensure the accomplishment of the desired purpose. A cooperative effort between the Bureau of Land Management, the Corps of Engineers and the Utah National Guard has produced a proposed substitute bill which we believe meets the objectives of the Department of the Army and the BLM. The draft bill has been reviewed and approved by all interested parties and by the proponents of S. 393.

The proposed bill would direct the Secretary of the Interior to offer approximately 839 acres of specified lands to the owners of approximately 864 acres of private lands sought by the Department of the Army for use by the Utah National Guard. On acceptance of the offer, the lands acquired by the Federal government would immediately, by operation of law, become part of Camp W.G. Williams to be administered in accordance with the same laws, regulations, and public land and executive orders as are applicable to other lands under the jurisdiction of the Department of the Army adjoining such acquired tracts. They would be treated as public lands withdrawn for the Department of the Army pursuant to Executive Order 1922 of April 24, 1914 and any amendments or revocations thereof.

The proposed substitute bill would also withdraw approximately 1473 acres of Federal land within the exterior boundaries of Camp W.G. Williams, which have not yet been withdrawn, and include this land within Executive Order 1922.

The proposed substitute bill would also partially revoke Executive Order 1922 to eliminate approximately 1490 acres of specific lands from withdrawn status and return them to the public domain. The Secretary of the Army would certify to the Secretary of Interior that these lands contain no hazardous material or substances, and would hold the Secretary of Interior harmless from any liability connected with any hazardous materials placed on the lands before their return to the public domain. Also, any liability resulting from the acquisition of private lands would rest in the U.S. Department of the Army.

A copy of the proposed substitute bill is attached to this statement. We encourage your adoption of this bill.

This completes my statement. COL Peay, Mr. Bain and I would be pleased to accept your questions.

A B I L L

Entitled the "Camp W. G. Williams Land Exchange Act of 1989".

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Camp W. G. Williams Land Exchange Act of 1989".

SECTION 2. Exchange

Notwithstanding any other provision of law, the Secretary of the Interior shall offer to exchange lands shown on a map entitled -- to the owners of tracts of private lands shown on said map. If the owners of any or all of the tracts accept the offer within two years of the date the enactment of this act, then the Secretary of the Interior shall convey to such owner or owners or their designee title to the designated land in exchange for lands simultaneously conveyed by the non-Federal owners to the Department of the Army. The land acquired by the Federal government in the exchange shall immediately become a part of CAMP W. G. WILLIAMS and shall be administered by the Department of the Army in accordance with the same laws, regulations, public land orders or executive orders applicable to the lands under the jurisdiction of the Department of the Army adjoining such acquired tracts and such acquired tracts shall be treated for all purposes as public lands withdrawn for Department of the Army pursuant to Executive Order 1922 of April 24, 1914 and any amendments, modifications or revocations thereto heretofore or hereafter made.

SECTION 3. Maps and Legal Descriptions.

(a) As soon as practicable after the date of enactment of this act the Secretary of the Interior shall publish in the Federal Register a legal description of the lands proposed to be exchanged by this act and shall file such maps and the legal descriptions with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular affairs of the United States House of Representatives.

(b) The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SECTION 4. Addition of Lands to Camp W. G. Williams

(a) The public lands and any other lands which are heretofore or hereafter owned by the United States within the exterior boundaries of Camp W. G. Williams that are shown on the map entitled -- are hereby withdrawn and reserved for Department of the Army and added to the lands withdrawn pursuant to Executive Order 1922 of April 24, 1914 and the lands reserved in this section shall be subject to any amendments, modifications or revocations thereto heretofore or hereafter made.

(b) Notwithstanding any other provision of law the Secretary of the Interior is hereby authorized to acquire lands within the present exterior boundaries of Camp W. G. Williams or lands that are adjacent to or within the reasonable proximity of Camp W. G. Williams as such boundaries are now or hereafter may be constituted, so long as acquisition of lands adjacent to or

within the reasonable proximity to Camp W. G. Williams does not equal or exceed five thousand acres, for the explicit purpose of addition to Camp W. G. Williams. Such acquisitions shall be by exchange or donation only.

SECTION 5. Partial Revocation of Executive Order 1922

Notwithstanding any other provision of law, Executive Order 1922 of April 24, 1914 is partially revoked, in so far as it affects specified lands shown on the map entitled -- upon the appropriate certification by the Secretary of the Army and the acceptance of such certification by the Secretary of the Interior, that the lands to be returned to the public domain do not contain any hazardous materials or substances as defined by applicable Federal law. The Secretary of the Army shall cause to be performed all inspections and other actions necessary to make such a certification and shall report his findings to the Secretary of the Interior within one year of the enactment of this Act. Thereafter the Secretary of the Army shall hold harmless the Secretary of the Interior for any liability associated with any hazardous materials or substances as defined by applicable Federal law that were placed upon or reasonably appear to have been placed upon the land prior to the return of the subject lands to Public Domain status.

SECTION 6. Liability

Upon the acquisition by the United States of any lands or interest in land pursuant to this act, any liability accruing to the United States as a result of such acquisition shall be deemed to vest in the United States Department of the Army. In no event shall liability vest in the Department of the Interior.

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Senator BUMPERS. Thank you very much, Major Nelson.

Senator GARN, do you have any questions of either witness?

Senator GARN. I have no questions, just a statement, Mr. Chairman that I do believe the substitute is an improvement over S.393 which I originally introduced and so certainly, I am in favor of that substitute that has been worked out; it is a better solution to the problem.

If I might be excused, Mr. Chairman. I have got a 3 o'clock appointment that I am a little bit late for, like about 47 minutes.

Senator BUMPERS. Certainly.

Senator GARN. Thank you very much.

Senator BUMPERS. Major, this map, have you seen a copy of this map?

Mr. NELSON. Yes, sir, I have.

Senator BUMPERS. This reference about the proposed substitute to S.393 shows two boundaries for Camp Williams—the original 1914 boundary and the proposed boundary after passage of this bill. Now, there are some lands within the original boundary, but outside of the new boundary, which are not identified.

Can you tell us the status of those lands?

Mr. NELSON. Yes, sir. Most of those lands are private. Some are public domain lands, but not being used by the military. That is one of the problems with that original boundary.

Senator BUMPERS. Major, let me ask you this question also. Are we exchanging mineral rights on these exchanges also?

Mr. NELSON. Sir, if the lands to be included at Camp Williams are included in Camp Williams by virtue of this legislation, there would be no mineral exploration. That is not done, as I understand it on military lands.

Senator BUMPERS. I wish that were true. Unhappily, we changed the law in 1976 to provide otherwise.

Did we not, Curt?

Mr. NELSON. Okay, sir.

Senator BUMPERS. What is the status of the minerals going to be on this exchange?

Mr. NELSON. Sir, if I could defer that question to Mr. Bain, that would be a good question for him.

Mr. BAIN. We did go ahead and exchange the minerals also. And we would get the minerals——

Senator BUMPERS. Minerals will go both ways?

Mr. BAIN. That is correct.

Senator BUMPERS. Does the government own—now the government owns all the minerals that it is conveying in these private in-holders on all the minerals that they are conveying?

Mr. BAIN. That is to the best of my knowledge right now, yes. We have done a limited record search on their properties. We have title reports and we have gone through the BLM records in the state office at Salt Lake City.

Senator BUMPERS. Has there been an appraisal made on the perspective values of these two tracts, or all of these tracts?

Mr. BAIN. No, we have not done site-specific appraisals. What we have done is appraisals in the general area, and we can give you a range of values for the typical type lands. We just bought 600 and some odd acres of land from adjacent owners in there. The average

price was about \$250 for an acre for dry-land grazing. If it had dry-land farming, it was going for about \$500 an acre. The same type of lands that we proposed to trade to the north on most of these properties is typical; so, the value would be the same.

Senator BUMPERS. Are these inholders farmers?

Mr. BAIN. One owner is a farmer. The other two owners are grazers. They are in the sheep business or cattle.

Senator BUMPERS. One is a row-cropper and one is a cattleman, or sheep—

Mr. BAIN. We have one cattleman, one sheep and one farmer, dry-land farming.

Senator BUMPERS. Now, those are the three people who are willing to exchange.

Mr. BAIN. That is correct.

Senator BUMPERS. The others are being purchased.

Mr. BAIN. They have already been purchased.

Senator BUMPERS. Already been purchased.

Mr. BAIN. All that remains is what you see on the map there in front of you.

Senator BUMPERS. Just those three.

Mr. BAIN. Yes, sir.

Senator BUMPERS. What is the total acreage on those three?

Major NELSON. Sir, there are 839 acres which are being offered to those owners, and 864 acres which will be taken back from them. Yes, sir.

Senator BUMPERS. And they own the mineral rights under all of theirs.

Mr. BAIN. That is correct.

Senator BUMPERS. And they are conveying that and we are conveying them the mineral rights on what we give them.

Mr. BAIN. That is correct.

Senator BUMPERS. Do you know of any mineral exploration that has ever occurred on either of those tracts?

Mr. BAIN. No, sir. Some of the lands that were Bureau lands, were leased with the Army's consent. The oil companies came out, took a look, did some drilling operations, and found it not profitable and walked away from it.

Senator BUMPERS. I have sort of an innate feeling, not mistrust of the parties involved certainly, but I am apprehensive about these land transfers where no appraisals have been made. I mean I know that all land looks very much alike. But down where I live a lot of land that looks alike, some of it is richer than Croesus and some of it is not worth very much, because of the mineral rights.

And these land exchanges, where mineral rights are involved and no exploration has ever been made or no value determinations made, cause me some concern. It seems to me like it is always just kind of a roll of the dice. It may be that the government is going to come out very handsomely on this, and these people who are giving up their lands are not going to fare so well. Who knows?

I would say the chances are probably 99 percent that it is exactly as represented, that there is no minerals here for anybody to get excited about one way or the other. But, one thing a politician always fears, is on hind-sight wondering why he was not snarter than he was, when something occurred. Or why he let a certain

thing happen. And that troubles me on all these land exchanges. I must say the Salt Lake City land exchange for water preservation, you know, there is a very compelling, they make a very compelling case. But I must say I am concerned about that.

Is this just going to be a simple deed for deed exchange between the private inholders and the Federal Government?

Mr. TEMPLETON. That is my understanding, yes.

Mr. NELSON. Sir, the landowners have been involved in this process as well. This is not going to blind-side them. They understand very clearly what is happening. And because they were unwilling sellers when we purchased the other parcels, they are very interested in this process, and are very supportive of it.

Senator BUMPERS. Billy, I mean we passed FLPMA. I was deeply involved in the passage of that bill. And we put a provision in there that these land exchanges have to be of equal value. We have two bills this afternoon that circumvent that provision, and I am just curious as to why?

Mr. TEMPLETON. I think there are two different objectives. And FLPMA has its merit. But these are lands that are in close proximity and very similar in characteristics. We are trying to accomplish the purpose faster than we could accomplish it under FLPMA. That is my perception.

Senator BUMPERS. It does not seem to me like there is any big deal. If you look at the surface of the two tracts, you could probably say, somebody could go out there and in two hours say they are comparable values. So from that standpoint, FLPMA is complied with. Get somebody to sign the statements and say the surface rights are equivalent in value, equal in value, and you comply with FLPMA. But you also need somebody, USGS, or somebody to come in and say, there is no known geological structure here. Or this has been core drilled or has not been core drilled, or give the percentages or what the chances are of any mineral rights and so on.

Just so when this comes up for mark-up before the full committee, because I can promise you, my colleagues are going to look to me as chairman of this subcommittee to have looked into these things. And when they ask me, why is FLPMA being circumvented, and why are these minerals not evaluated, all I can do is give them a bear-faced look.

Do you agree?

Mr. TEMPLETON. Yes, sir. May I ask the question of one of my partners here?

Senator BUMPERS. Yes.

Mr. TEMPLETON. Ed, what other exploration has been done other than—

Major NELSON. Senator, Texas Gas and Oil did evaluate the potential at Camp Williams, and backed away from it. They did not find a formation that in their view at least, justified a further look. A second point I need to make is that if mineral exploration were to take place on the private lands inside Camp Williams, Camp Williams itself would be in big trouble. That is one of the reasons we have been working so aggressively to get those inholders out. That is a dagger poised at the heart of the operation of that military reservation, and with as many different agencies, military

agencies using it, as do today, it is going to be very difficult if we do not get that taken care of.

Senator BUMPERS. Major, I wonder if Texas Oil and Gas would be willing to share a little of their proprietary information with us and tell us what they found, not that I trust Texas Oil and Gas, incidentally. Does anybody know?

Mr. BAIN. I am sure they might. We got copies of the drilling reports that happened about four, maybe five years ago, and they dropped their leases. We no longer have leases on the public lands in that area.

Senator BUMPERS. In that case, they ought not have any hesitancy about saying why they dropped the leases, then. Should they? It seems to me that would be very helpful to the subcommittee and the full committee, if we had somebody say, we went in there, we had leases on this land, and we drilled it, and we did not find anything, so we dropped our leases. That would at least be a step in the right direction in determining equivalent values here.

Major NELSON. Sir, let me if I could, address the equivalent value issue one time. There was an estimate—it was done by Utah's Department of Transportation. The estimates were more formal, and in fact were appraisals of the parcels that we purchased. They did not get into the appraisal—get to the appraisal level for the pieces that we are talking about here, but estimates were done. If you look at the map, two of the three landowners are dealing with exchanges where the pieces are adjacent to each other and are on exactly the same kind of geologic formation and right next to each other on the map. The third landowner, the one with the two big pieces in the interior of Camp Williams, is going to end up with moving, should this legislation pass, up into the upper left area there, the northwest. And that formation is very, very similar to the kind of geological formation on which his land is located in Camp Williams. And the surface uses are projected to be exactly the same.

Senator BUMPERS. Major, there is one other point I might make, just for your edification, and that is we are leasing lands on military reservations all over America, and drilling them right and left. At Fort Chafee, which I mentioned a moment ago, Texas Oil and Gas got a lease for \$33,000 on 33,000 acres there, which was ultimately overturned to the Supreme Court and relet on a competitive basis for \$43 million. And there are gas wells all over Fort Chafee and still drilling.

As far as I know it has not affected, has not impeded—Kurt, do we make them put those things underground or anything at Fort Chafee, the so-called tree is underground?

Mr. JONES. 15 to 20 feet.

Senator BUMPERS. Well, gentlemen, you have all made good witnesses. Those are questions that we will be talking about with the staff in trying to resolve, and hopefully we will be able to resolve them. Certainly I want to support the bill, and I want to get this exchange made. It is to everybody's benefit to do it. But we have this problem of equal values.

Thank you again, both of you.

Billy, if you will, I think you also have a statement on S. 620 and H.R. 2783. If you could summarize, Billy. We are on a little bit of a

tight schedule. If you could summarize your testimony on those two bills, it would be very helpful.

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 620 AND H.R. 2783, ACCOMPANIED BY KURT JONES, EASTERN STATES DIRECTOR

Mr. TEMPLETON. Mr. Chairman, let me do that very quickly on S. 620. You already heard discussions on that bill before.

We had objections to the bill as it was drafted. We have been in communication with the Senate staff and with our State office. And we believe that we can work those differences out to Mr. Shebal's satisfaction and to our own.

Senator BUMPERS. Have you been discussing this with Senator Stevens?

Mr. TEMPLETON. That is correct, with Senator Steven's staff and with—

Senator BUMPERS. What is your principle objection? I have not had a chance to look at your testimony.

Mr. TEMPLETON. The fair market value question, the—I thought I had them all down, but I do not. There was a question of 80 acres—

Senator BUMPERS. You object to the wild and scenic river corridor being violated, for one thing.

Mr. TEMPLETON. That is correct. That creates an inholding. But in the proposed legislation, it would have involved 80 acres, and he has never occupied more than five. But in discussing that with staff, that is fine; that is all he is ever interested in. So, the 80 acres was apparently an error that came up somewhere else. Then for the inholding and the proviso that the purchaser bear the cost of survey of the land, normally, we have the recipient of public land pay the cost of survey. But we believe we can work all these differences out, now having spent some time with all of the interested parties.

Senator BUMPERS. You say you do not have any objection to his use of the area for recreational purposes. You are talking about a recreational use permit. Does that mean that he can use his five acres for commercial purposes?

Mr. TEMPLETON. No, sir. This is personal recreation. And for consistency, there are other cabins in that area that are used. I do not know that there are other airstrips, but his use of the land is consistent.

Senator BUMPERS. Are those other cabins along the river at the sufferance of, I guess BLM?

Mr. TEMPLETON. They belong to the agency. They are used for public purposes up there, for administrative sites.

Senator BUMPERS. Oh, I see. They are not privately owned places.

Mr. TEMPLETON. That is correct.

Senator BUMPERS. Okay, this other bill H.R. 2783, Billy.

Mr. TEMPLETON. Kurt Jones, the Eastern State Director, will accompany me on this one.

Senator BUMPERS. Before you start testifying, we also have Marvin Sonosky of the Red Lake Band of Chippewas, here in

Washington. Just so everybody's at the table that is going to testify on this bill.

Go ahead, Billy.

Mr. TEMPLETON. To summarize, as you have asked, Senator, this legislation would grant title to some 9,543 acres that are in .1 to 75 acre tracts in the State of Minnesota, for more efficient management. They are difficult for us to manage, hard to get to, hard to even find, and can be better managed by the State.

Approximately 20 percent of them are encumbered by some kind of claim that we would have to deal with; and some 66 percent of them have not been surveyed. Under this legislation we would be able to transfer those to the State of Minnesota without a survey, I believe.

We support the purpose of the act. We feel that it is a good thing to do. But there are again, as was the case with the previous bill, some issues that have not been addressed yet, and we have some suggestions by which we can address the issues that have not been covered.

[The prepared statement of Mr. Templeton follows:]

SEP 12 1960

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 620, A BILL "FOR THE RELIEF OF LEROY W. SHEBAL OF NORTH POLE, ALASKA."

I appreciate the opportunity to discuss S. 620, a bill that would direct the Secretary to sell certain property in Alaska to Leroy W. Shebal of Alaska.

Section 1(a) would direct the Secretary of the Interior to sell a certain parcel of land located in Alaska, described in section 2, in fee simple to Mr. Shebal. The sale would be required to be made notwithstanding provisions of the Wild and Scenic Rivers Act or any provisions of the public land laws, and as soon as practicable after the conditions set out in this section are met. These conditions are that the conveyance be made after receipt by the Secretary of notification from Mr. Shebal, within 1 year of enactment, of his intention to purchase the property, and receipt of \$650 in consideration of the purchase.

We oppose enactment of S. 620.

The issue which this legislation is designed to resolve goes back some 29 years. At that time, Mr. Shebal applied for the land for recreation purposes and the tract was classified for that purpose under the Small Tract Act.

By decision of April 18, 1960, Mr. Shebal was offered a 2 year lease. This would allow him to develop the site as required by BLM regulations in effect at that time. The lease provided for the option to purchase the land under the Small Tract Act in the future at the appraised value of \$200 or the cost of survey, whichever was higher. Mr. Shebal objected to the 5 acre tract described in the proposed lease because he claimed it encompassed an unusable portion of land, and he wanted to include an area for boat moorage and a sand bar where he could land his plane. He rejected that lease.

The expanded tract that Mr. Shebal sought was very remote. A cadastral survey could not be done at that time because of the expanded length of waterfront included in the tract. At that time the BLM policy on remote lands was to lease only, not to sell. Mr. Shebal was offered a lease without a purchase option on the land that he had originally sought to purchase. With this understanding, the area was reclassified for lease only to cover the expanded tract of land. Mr. Shebal was offered and accepted a 20 year lease to run from January 1, 1961, to January 1, 1981.

On January 11, 1965, Mr. Shebal was advised that the "lease only" policy on remote sites leased under the Small Tract Act had been changed. He was offered the opportunity to apply for purchase of the property he was leasing, and advised that the approximate price of his site was \$650. We understand that for personal reasons Mr. Shebal did not, or was unable to, purchase the land at the time it was offered. He did not respond to this invitation to apply to purchase until September 21, 1971, when he wrote to BLM seeking to

purchase the property but with a changed description, "if the offer to purchase is still valid". He wanted to accommodate a change in the course of Beaver Creek and in the location of his landing strip. However, in 1969 the lands had been withdrawn by Public Land Order 4582 in aid of legislation for Native Aleuts, Eskimos, and Indians of Alaska, in 1971 by the Alaska Native Claims Settlement Act, and in 1972 by Public Land Order 5250. Thus, in 1971 the Bureau could not classify the lands for disposal because they were withdrawn. In 1980, Beaver Creek was included as a component of the Wild and Scenic River System and pursuant to the provisions of the Wild and Scenic Rivers Act are withdrawn from sale and mineral entry.

As I said earlier, we object to enactment of S. 620.

We object to conveyances of public lands within any wild and scenic river corridor. Enactment of this legislation will create a private inholding, and would be inconsistent with the intent of the Wild and Scenic Rivers Act to retain public lands within the river corridors in United States ownership for the public benefit.

We object to any conveyance of land at less than fair market value. This would not be in the public interest and would be inconsistent with congressional and administration policy.

We object to the potential for conveyance of 80 acres to Mr. Shebal when all he has occupied has been a tract of less than 5 acres.

Finally, we object to the fact that the bill fails to provide that the purchaser bear the cost of survey of the land. This is particularly troublesome because the site is being used for commercial guiding purposes.

Currently, Mr. Shebal has a recreational use permit, effective through August 4, 1991. This permit can be extended. Our Alaska office has also discussed a life estate option with Mr. Shebal. We have no objection to recreational use of this area by Mr. Shebal and his family under a BLM permit.

This completes my prepared statement. I will be pleased to answer questions.

SEP 12 1989

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATIONAL RESOURCES, UNITED STATES SENATE, ON H.R. 2783, AN ACT "TO IMPROVE THE MANAGEMENT OF CERTAIN PUBLIC LANDS IN THE STATE OF MINNESOTA.

I appreciate the opportunity to discuss H.R. 2783, the Minnesota Lands Improvement Act of 1989.

While we support the purpose of H.R. 2783, we cannot support the bill unless it is amended as we suggest.

This legislation would grant the State of Minnesota the surface estate in certain listed islands and uplands which are not subject to any claim. It would authorize the Secretary to sell any listed lands which were subject to claims as of January 1, 1989. The Secretary would be required to transfer to the State any claimed tracts not purchased by claimants within 10 years of enactment of the Act and the claim would not thereafter be enforceable in any court. The Act also provides that the surface estate in existing Recreation and Public Purposes Act (R&PP) leases and patents would be deemed to have vested in the State on the date of enactment of the Act. Any R&PP lease or patent to someone other than the State would be transferred to the State in the event of reversion.

The Act contains specific provisions for the sales it authorizes. It would reserve all minerals to the United States except that, on sales, minerals could be conveyed pursuant to section 209 of the Federal Land Policy and Management Act. The Act mandates that lands granted to the State shall be

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used only for public recreation, protection of fish and wildlife, including habitat, and plants, or the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

H.R. 2783 is designed to provide more efficient and effective management of some 992 tracts of public lands in Minnesota, encompassing 9,543 acres, which are small, widely scattered, difficult and uneconomic to manage. The majority of the tracts are unsurveyed islands of 0.1 to 75 acres. Approximately 20 percent of these tracts are thought to be encumbered by claims of title. Approximately 66 percent are unsurveyed.

H.R. 2783 is similar to the Michigan Public Lands Improvement Act of 1989 (P.L. 100-537). Since enactment of that Act and more particularly since the recent hearing on H.R. 2783 before the House National Parks and Public Lands Subcommittee, we have reviewed the legislation in more thorough detail and in light of some evolving circumstances that warranted further consideration.

Attached to this statement is a letter sent to this Committee discussing in detail the provisions of the Act and the amendments we believe are essential. They are fairly extensive and I will not discuss them at this time but I urge that the suggested amendments be adopted so that we can give H.R. 2783 our full support.

As I said, H.R. 2783 is similar to P.L. 100-537 and addresses the same problems. We suggest that P.L. 100-537 be amended to conform to our suggested amendments so that there is consistency among the laws which address the same problems and issues.

This completes my prepared statement. I will be pleased to answer questions.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



SEP 11 1989

Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for our views on H.R. 2783, an Act "To improve the management of certain public lands in the State of Minnesota."

We support enactment of H.R. 2783, only if amended as we suggest herein.

This Act would be cited as the "Minnesota Public Lands Improvement Act of 1989." Sections 1(b) and (c) set out the findings of Congress and the purposes of the Act. Section 1(d) would define several terms used in this Act, including the term "listed uplands and islands." The Act would apply to listed uplands and islands in the State of Minnesota except for any lands ceded to the United States by an Indian tribe by the Act of January 14, 1889. Section 2(a) of H.R. 2783 would grant to the State of Minnesota the surface estate in certain listed islands and uplands which are not subject to any claim.

Section 2(b) would authorize the Secretary of the Interior (Secretary) to sell any listed public lands, which were subject to claims on January 1, 1989, to those claimants. Those tracts not purchased by claimants within 10 years of enactment of H.R. 2783 would be transferred by the Secretary to the State, and any claim to those lands by any party other than the State would not be enforceable in any court of the United States.

Under section 2(c), the surface estate held by the State under existing Recreation and Public Purposes Act (R&PP) leases would be deemed to have vested in the State on the date of enactment of H.R. 2783. Thereafter, these lands would be exempt from the Department of the Interior's regulations governing such leases. Rather, they would be subject to the restrictions used in H.R. 2783. Further, in the event of reversion and acceptance by the Federal Government of public land leased or patented under the R&PP

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Act or patented prior to the enactment of H.R. 2783, the surface estate would be required to be transferred by the Secretary to the State. These lands would then be subject to the provisions of H.R. 2783.

Under section 3, the Secretary would be authorized to sell claimed public lands located in Minnesota where the Secretary determines that such tract does not exceed 1,500 acres, management of the tract is difficult and uneconomic as part of the public lands, the lands are not suitable for management by another Federal department or agency, and the sale would not be inconsistent with land use plans developed in accordance with the Federal Land Policy and Management Act (FLPMA). Section 3(b) would permit the Secretary, at his discretion, to sell such public land at fair market value, less equities presented by the applicant for such conveyance and the value of any improvements. Section 3(c) would require lands be described in accordance with the Public Land Survey System. Where a tract does not conform to an existing survey plat, the Secretary could either permit a transfer of such lands to a trustee, qualified under the law of the State to act as a trustee and acceptable to the Secretary, or require reimbursement from applicants for survey costs. No costs incurred by a trustee in implementing this section would be borne by the United States. Pursuant to section 3(d)(2), no sales could take place sooner than 30 days after publication in a newspaper of general circulation in the county where the tract is located.

Section 4 would reserve to the United States all minerals in lands conveyed under H.R. 2783, except that on sales allowed by section 3, minerals could be conveyed together with the surface in accordance with section 209 of FLPMA. Section 4(b) would prohibit reconveyance by the State of any listed islands or uplands except to the United States or a political subdivision of the State. This section would require that lands conveyed to the State pursuant to this Act be used only for public recreation; protection of fish and wildlife, including habitat, and plants; or the protection of the scenic, scientific, historic, cultural, geologic and other resources of the uplands and islands. For violations of these provisions, the lands would revert to the United States.

Section 5(a) would require the Secretary to notify Minnesota residents of the nature and location of the listed tracts to be granted or transferred to the State. The State would be required to notify the Secretary within one year of any conveyance or transfer to a political subdivision of the State of lands transferred to the State under this Act. Failure of the State to notify the Secretary within one year of such conveyance would result in the conveyance being void

ab initio and the land reverting to the United States. No later than five years after enactment of this Act, and every five years thereafter, the State would be required to submit to the Secretary a report on ownership, management, and use of the transferred lands.

Section 5(b) would permit any person to file a complaint alleging that the State or political subdivision had failed to comply with provisions of H.R. 2783. If the Secretary finds there is sufficient evidence to warrant further investigation, an investigation into the matter would be required.

If it is found that lands granted to the State have reverted to the United States, the Secretary would be required to take all necessary steps to enforce the reversion and stop uses incompatible with this Act. The Secretary would be required to retain and manage any lands that reverted consistent with the purposes specified in section 4 of the Act.

Section 6 would assure that nothing in this Act would affect the jurisdiction and responsibility of the State with respect to fish and wildlife in the lands transferred to the State.

Finally, section 7 would amend two sections of the Michigan Public Lands Improvement Act of 1988 to conform to similar provisions of H.R. 2783. Section 3(d)(1) of P.L. 100-537 would be amended to require that the Secretary determine that claims are sufficiently meritorious as to be appropriate for exercise of the sale authority under that law. Sections 4(b)(1) and 4(b)(3)(A) would be amended to permit reconveyances by the State to the United States as well as to political subdivisions of the State.

In 1980, the Bureau of Land Management (BLM), as a result of its land use planning process, determined that most of the tracts of land in Arkansas, Iowa, Louisiana, Minnesota, Mississippi, and all States east of the Mississippi still under the jurisdiction of BLM are too small, scattered, difficult, and uneconomic to manage. In addition, many of the lands are subject to claims of title.

H.R. 2783 addresses the situation for Minnesota and would result in more efficient land use management, and enable completion of actions which would otherwise take years to complete.

In Minnesota, BLM currently manages 992 small, widely scattered parcels comprising 9,543 acres. Of these, 848 parcels totaling approximately 7,800 acres have been identified by BLM as unclaimed by non-Federal interests and suitable for State management rather than continued Federal

management. The majority of the tracts are unsurveyed islands of 0.1 to 75 acres. Approximately 20 percent of these parcels are thought to be encumbered by claims of title. Approximately 66 percent of the total number of tracts are unsurveyed. All existing disposal authorities require survey prior to transfer. The provisions of H.R. 2783 for conveying to a qualified trustee or for reimbursement to the United States for surveying the tracts would eliminate the problems related to surveying.

Since 1983 the Federal Government has transferred 71 parcels of public land to the State of Minnesota, or its subdivisions, under the authority of the R&PP Act. These parcels are limited to public purpose use and the patents contain a reverter clause that would return the tracts to the United States if the provisions of the patent are violated.

Land transferred and granted under H.R. 2783 would be subject to limitations on use, and would revert back to the United States if these provisions are violated. The State could reconvey the lands only to the United States or to a political subdivision of the State.

H.R. 2783 contains provisions by which previously issued R&PP leases would be deemed to have vested in the State under the provisions of H.R. 2783, and would exempt them from the regulations of BLM governing R&PP leases. This would put all land transfers to the State of Minnesota, those made in the past, and those made pursuant to H.R. 2783 under the same provisions.

Section 3 of H.R. 2783 permits sales of lands, in certain situations, to resolve title conflicts. The Bureau has attempted to resolve title conflicts through the use of the Color-of-Title Act and through sales at fair market value under FLPMA. These efforts have been very time consuming and expensive and, for the most part, have been unsuccessful. The only alternative for resolution of these claims has been special legislation on a case-by-case basis. Resolution of title conflicts by this method has been costly in both time and money. We believe that the sale authority in H.R. 2783 would allow resolution of the majority of title conflicts in Minnesota in an efficient manner that would be fair to the claimant and the general public.

While we support the purposes of H.R. 2783, we believe it must be amended to address these concerns.

1. Section 1(d)(1). The definition of "listed uplands and islands," in section 1(d)(1), was amended at the request of the Bureau of Indian Affairs to exclude "any lands ceded to

the United States by an Indian tribe pursuant to the Act of January 14, 1889 (25 Stat. 642)." The Milwaukee District Office of BLM has advised that approximately 5,000 acres on the list of uplands and islands are lands which are within the ceded area. The lands, however, were acquired from the Indians by the United States for use as flowage easements for those lands bordering on the Lake of the Woods, the Warroad River, and the Rainy River in Minnesota. Indian rights to these lands were extinguished through payment by the United States in 1938 (52 Stat. 215). The amended language under this definition acts to exclude the flowage easement lands from the purview of the Act even though the lands are public lands under the jurisdiction and management of BLM.

If the intent of the Act is to convey all those lands on the list, the Act must be amended to include those ceded Indian lands for which Indian title has been extinguished. We suggest that the phrase "for which Indian rights, interests, and title have not been extinguished or which were restored to the tribe by prior Secretarial Order." be added to the last sentence in section 1(d)(1).

2. Section 1(d)(1). Section 2(a) purports to grant to the State of Minnesota both surveyed and unsurveyed lands which appear on the list of uplands and islands. However, Section 1(d)(1) of the Act defines "listed uplands and islands" as "those vacant, unappropriated, and unreserved public lands located in the State of Minnesota." The definition of "listed uplands and islands" by its very terms is inconsistent with the granting language of the Act. The lands being conveyed are represented as public lands but this determination can only be accomplished through the survey process. Once a survey has been conducted and the status of ownership has been determined, there can be a finding as to whether these lands are public domain lands.

We recommend that the phrase "vacant, unappropriated, and unreserved public," be stricken from section 1(d)(1) to avoid any inconsistency with the granting authority in section 2(a) of the Act. With these deletions, the interest and title of the United States, to surveyed as well as unsurveyed tracts of land, can be transferred or conveyed.

3. Section 1(d)(3). Unlike land sales provisions under other statutes dealing with public lands on which claims exist, the sales provision of the H.R. 2783 grants to the Secretary almost unlimited discretion. For example, the Color-of-Title Act requires that a tract of public land be held in good faith under claim or color of title. Section

1(d)(3) of H.R. 2783 in contrast, defines the term claim merely as "an assertion by a party other than the United States that such party has title to a parcel or tract of land." The conclusion drawn from the definition of "claim" is that there is not even a requirement on the part of the claimant to make a good faith assertion of right or title to the land. We recommend that the definition of "claim" be amended to require "a good faith assertion of right or title to the land." The Act, in our opinion, does not provide sufficient justification for such broad discretionary authority.

4. It is conceivable that there will be claims for lands not noted to the records on January 1, 1989, but which are subject to remedial statutes. We suggest that the date, January 1, 1989, be deleted from section 2(a) and (b), and replaced with the phrase "as of the date of passage of this Act".
5. Section 1 states that the purpose of the Act is to place under State management numerous "small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management", and which are not suitable for management by BLM or for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation systems. If the purpose of the Act is to implement the broad findings set forth in section 1, we note that the list of lands subject to this Act contains only 10,000 acres. It is our understanding that there are more public lands in Minnesota than 10,000 acres, and we therefore question whether this Act is adequate to meet the stated purposes. Furthermore, after litigation resolving Indian ownership to lands in Minnesota has been concluded, it may reveal lands which qualify for conveyance to the State and which could be disposed of under this Act in the future. The passage of this Act prior to the conclusion of this litigation would prevent those lands from being conveyed under this authority.

We suggest that the existing text of section 2(a) be redesignated as paragraph (1), and the following language be added as paragraph (2) of that section:

"(2) In addition to those lands described in section 2(a)(1), any other lands which are not subject to any claim identified on the records of the Bureau of Land Management and are determined by the Secretary to be suitable for management by the State in accordance with the terms and conditions of this Act, may be conveyed by the Secretary to the State."

6. Section 2(b) requires the Secretary to notify claimants of his authority to make such sales, to transfer to the State all such lands not purchased within 10 years, and disables any "court of the United States" from enforcing any claim to such lands after that time. We believe that language should be added to quiet title to such lands after the passage of ten years and before the conveyance to the State, effectively preventing enforcement of claims in State courts.

We suggest that the last sentence of section 2(b) be amended to read:

"The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall be null and void and shall not thereafter be enforceable in any court of the United States."

7. Section 2(c)(2). Under this section of the Act, the Secretary would be directed to transfer to the State, lands which were leased or patented to entities other than the State under the R&PP Act. The State should have the ability to accept or reject the lands before they are automatically transferred. This could be accomplished by adding the words "if the State requests conveyance, the Secretary shall transfer the surface estate to the State" at the end of paragraph (2) of this section.
8. Section 3(c)(2) deals with tracts that do not conform to an existing survey plat. An unsurveyed tract requires the applicant to reimburse the United States for the cost of preparing the plat of survey, but does not require reimbursement for any other aspect of the survey, including the field work. This provision is of questionable utility since the major cost in a survey is the field work and associated duties. Plat preparation is merely an incidental expense. We suggest that the first sentence of section 3(c)(2) be deleted, and the words "require the applicant to bear all costs of survey and plat preparation" be inserted in its place.
9. Section 4 conditions the use of the lands granted under the Act to public recreation purposes; protection of fish, wildlife, and plants; or the protection of scenic, historic, cultural, geologic and other resources. This section also requires that the State and/or any political

subdivision of the State use the lands only for the specific purposes set out in that section.

Restrictions in the grant prevent the State from conveying to any entity other than a political subdivision of the State. Likewise, a political subdivision can only convey the lands back to the State. The Act would require BLM to monitor all conveyances by the State or its grantees of lands granted under the Act, as well as the use of the lands, to determine compliance under the Act.

Noncompliance with any of the above mentioned restrictions would cause the lands to revert to the United States. Section 4 specifically provides that lands will revert to the United States if the State conveys to any entity other than a political subdivision; if any political subdivision conveys to any entity other than the State; or if any of the land granted is not used for the specific purpose set out under that section. Under any of these circumstances, all right, title, and interest in and to all of the lands granted or conveyed to the State, will revert to the United States. The Act is not explicit as to whether such reversion is automatic upon any act of noncompliance or whether BLM must notify the State of noncompliance or otherwise take steps to initiate a reversion of title to the United States. The potential problems associated with the reverter provision, and with determining the ownership status of lands on which unauthorized activities have occurred, are significant and should be considered prior to the passage of this Act.

The problems associated with a reverter provision of this type have received much attention under the R&PP Act. By virtue of the reverter provision in that Act the United States has been faced with the disposal of hazardous waste in sanitary landfills, and liability for the disposal under the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6901-6987) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601-9656). Under the R&PP Act, the reversionary provision exposes the United States to liability if any portion of the land is used for the disposal of hazardous waste. Land patented under the R&PP Act for specific use as a sanitary landfill reverts to the United States if the land is used for hazardous waste disposal. The United States is then liable for the hazardous waste as the landowner of the sanitary landfill.

The 1988 amendment to the R&PP Act (P.L. 100-548) sought to rectify the problem of landowner liability on the part of the United States under both Federal and State hazardous

waste laws. Under the 1988 amendment lands may be specifically patented for the purpose of solid waste disposal or for any other purpose that might result in the release of hazardous waste. However, the patent must state that no portion of the lands used for such purposes will revert to the United States. We recommend the same provision be added to H.R. 2783, and suggest that the following new paragraph be added to section 4(b):

"(5)(A) If any lands granted or otherwise conveyed to the State or political subdivision of the State, shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601) or if they shall have been used for purposes that the Secretary finds might result in the disposal, placement or release of any hazardous substance, such land shall not under any circumstances revert to the United States."

10. Section 4(b). We suggest that section 4(b) of the Act also include a provision that would require the State to pay fair market value for lands used for solid waste disposal or for any other purpose that might result in the release of hazardous wastes, and that would not revert to the United States under our suggested new section 4(b)(5), above. This would serve to discourage the State from using the lands for solid waste or hazardous waste disposal.

We suggest the following language be added as new section 4(b)(5)(B):

"(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) might result in the disposal, placement or release of any hazardous substance, the State or political subdivision of the State shall be liable to pay the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. Subject to appropriations, all amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended."

11. Section 4(a) authorizes the Secretary to "convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976." If the intent of the Act is to prevent

conveyance of any mineral interests to the State, the bill should specifically prohibit the State from acquiring minerals under section 209 of FLPMA. If the State acquires such mineral interest and subsequently attempts to mine or remove the minerals, the surface would have been used inconsistently with the purposes of this Act and would revert to the United States. Since the subsurface would have been acquired under section 209 of FLPMA, which has no such reversionary language, the State would continue to own the subsurface. We suggest section 4(a) include the statement, "The State is expressly prohibited from acquiring minerals under the Federal Land Policy and Management Act of 1976."

12. Section 5(a)(2). The notice and enforcement section of the Act creates several problems in light of the stated purpose of the Act to provide for better management of public lands. Sections 5(a)(2)(A) and (B) of the Act require the State to notify the Secretary of any conveyance or transfer by the State to a political subdivision. We recommend this section also require the transferee to provide notice to the Secretary of any conveyances. This ensures the Secretary will receive notice of all conveyances of these lands.
13. Section 5(a)(3) would require the Secretary to maintain in Washington, D.C., the land status records of transfers to the State. There is currently no office in Washington, D.C., with record keeping functions of this nature. We suggest the Act provide these records be kept in the same manner and location as currently established for public land records. This could be accomplished by substituting the following language for section 5(a)(3):

"Any conveyance or transfer of lands under this Act by the State or a political subdivision thereof shall be noted to the official records of the Bureau of Land Management and maintained in the appropriate office of the Bureau of Land Management."
14. Section 5(b)(1) provides that "any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this Act." This provision indicates that any person submitting a complaint has a right to a response as well as a right to an administrative and judicial appeal. It is unnecessary to subject every complaint to an administrative review, especially in light of the other provisions under this section.

We recommend that section 5(b)(1) be deleted from the Act and section 5(b)(2) be renumbered section 5(b)(1) and be amended to read, "If noncompliance is brought to the Secretary's attention, and the Secretary determines that a complaint is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter." Subsequent paragraphs of section 5(b) should also be renumbered.

15. Section 5(b)(4) would require that lands revert to the United States under this Act be retained and managed in accordance with the stated purposes of the Act. This acts as a withdrawal of all those lands which revert to the United States because they can only be used for the specific purposes set out in section 4(b)(2). This is contrary to the disposal authority of BLM and will require BLM to retain and manage lands they find suitable for conveyance. We suggest that section 5(b)(4) be amended to read: "Any lands which may revert to the United States under this Act shall be managed by the Secretary in accordance with the Federal Land Policy and Management Act of 1976."
16. Section 7. To conform to our suggestions and the intent of section 7, we recommend that, to the extent the 1988 Michigan legislation is inconsistent with our suggested amendments, it be amended to make it consistent with our recommendations.
17. The words "Great Lakes" in section 2(a) cover too broad an area and are unnecessary. A more accurate description of the location of the lands would be "Lake Superior" rather than "Great Lakes."

In conclusion, we urge enactment of this legislation with the above referenced amendments in order to improve management of public lands in Minnesota.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

/s/ James M. H.
 Deputy Assistant Secretary

Senator BUMPERS. If you will, Billy, you have got a rather lengthy statement on this bill here. And have you set out in this the suggested changes in this bill?

Mr. TEMPLETON. Yes, sir. We have submitted those to the committee staff.

Senator BUMPERS. Well, I will ask you, if you will, then just to defer going into this in your testimony here, and the staff and I will get together and look them over and probably call on you further.

Mr. TEMPLETON. Very well.

Senator BUMPERS. Okay, now with that, Mr. Sonosky, I would like to hear from you on this bill.

STATEMENT OF MARVIN J. SONOSKY, SONOSKY, CHAMBERS & SACHSE, ON BEHALF OF THE RED LAKE BAND OF CHIPPEWAS

Mr. SONOSKY. Thank you, Mr. Chairman.

Senator BUMPERS. Incidentally, who is the author of this bill?

Mr. SONOSKY. I beg your pardon?

Senator BUMPERS. Who is the author of this bill? Is this Congressman Vento's bill?

Mr. TEMPLETON. Yes.

Senator BUMPERS. Okay, we give great weight to Congressman Vento around here.

Mr. SONOSKY. The bill originated in the House.

My name is Marvin J. Sonosky. I am an attorney in Washington D.C. And I am here representing the Red Lake Band of Chippewas in northern Minnesota.

The bill is troubling to the Red Lake Bands. It grants title to certain lands in Minnesota, to the State of Minnesota; it is a donation. And it vests the Secretary of Interior with the power to resolve claims, apparently private claims. It gives him discretionary authority, and by discretionary authority, I mean, he may sell the land to them for less than the market value, if certain circumstances are present, equitable circumstances.

Although the bill pretends to grant title only to public lands in Minnesota, the fact is that looking at that bill, Congress does not know what it is giving away. The State of Minnesota does not know what it is getting. And the Band does not know what land this bill is talking about.

Now, when this bill came before the House subcommittee, the House subcommittee was not informed of any Indian interest, and if you read the House committee report, excluding the amendment put in by the full committee, you will see that the House subcommittee was not aware that there were even any Indians in Minnesota. And when they relate the history of this bill, the history of the State of Minnesota, they do not mention Indians.

Although every single acre of land in Minnesota was purchased by the United States from the Sioux Indian tribes and the Chippewa tribes. They did not get title to any land by reason of transfer of sovereignty. And it was in this context that this legislation was considered by the House subcommittee.

At some point somebody must have advised the full committee that there were Indians in Minnesota, that they did have an inter-

est in this land. And an exclusionary clause was put in, in the definitions of the bill, which states that nothing relating to lands ceded in trust by the Red Lake Band or by any Band of Chippewas in Minnesota should be affected by this bill.

Now, to understand a little of it, and I know that we are late in the day, and the Senator has been very patient. I shall not read my statement. I should like to give the Senator enough background, so as to know where we are coming from.

In 1889 the United States induced the Red Lake Band to give up 2.8 million acres of its reservation, not an original title, but reservation land. The United States did not pay a cent for it, but they agreed that they would sell the land for the Band and give the Band the proceeds. And the United States did dispose of the land often under the terms of the Nelson Act referred to in the bill, often in violation of it, but they disposed of the land and paid proceeds until 1934, when Congress directed that such land no longer be disposed of under the Homestead laws. And authorize the Secretary of the Interior to restore such land as was not disposed of, if it were not subject to valid claims.

Eleven years later in 19—well I should say in 1934, the Secretary promptly withdrew from disposition all the undisposed of land, so that he could consider which land should be restored. And 11 years later in 1945 he did restore 150,000 some acres to the Band. When I say restore, the Band, we must keep in mind what the Supreme Court decisions have taught us, that when the band ceded it in trust, title remained in the Band, until the United States disposed of it, usually by patent. And when it was disposed of by patent, the tribes, the Band's title was extinguished. So, as to this undisposed of land, title remained in the Band. And 150,000 some acres were restored in 1945.

In January 1989 this year, the Assistant Secretary of the Interior for public lands, had a big ceremony in his office. And he invited the chairman of the Red Lake Band to come down with his delegates. And they had a senator there from Minnesota and others. And there was a little ceremony at which they had set up a list of all the lands they were now going to restore to the Red Lake Band. And it was about 180,000 acres, about 30,000 acres more than were restored in 1945.

Senator BUMPERS. This was an additional 30,000 acres?

Mr. SONOSKY. Yes, although in the 1989 list, they included both the 1945 lands and the other.

The restoration could not be made official until it was published in the Federal Register, never published. We surmise, or we speculate that perhaps this bill which is before the committee, was the reason that there was no publication. Because this bill does affect some of that land.

Now, our major problem with the bill is that it does not identify the lands, so the Band does not know what is in or what is out. The bill is divided—well, I might say the section 2 is divided into three parts. Section 2-A deals with what is called unclaimed land. That means that nobody is claiming it according to the records of the Bureau of Land Management, but we, for me the bill would not know how to find out who is or who is not claiming it. I think the Bureau of Land Management knows.

Section 2-B deals with claimed land, and there they give the Secretary direction to notify each one of these claimants. So apparently they know who the claimants are; we do not know. Some place there is such a list, I suppose. But the Band is not one of those who is to be notified. They notify claimant, and if the claimant comes in and proves certain things within 10 years, the Secretary is authorized to sell them the land, at what I call a discretionary price, without regard to fair market value. And if not, if it does not happen in 10 years, donate it to the State of Minnesota.

Mr. Chairman, the real problem with this bill is, that it concerns Indians, and that no consideration, let alone consultation, let alone notice, was given to the Red Lake Band. The Secretary of the Interior sits with two heads on his shoulders, one for public land and one for Indians. One deals with things, land; and one deals with people, Indians, for whom he has a trust responsibility. When a matter such as this comes up, where there is a situation as to whether this land which was part of the original Red Lake reservation should be donated to the State of Minnesota or to others, or whether this should be restored to the Band, we think that is something the Secretary should consider. But of course, the department is compartmentalized; it is given to the Bureau of Land Management, and their concern is only with public land. And the tribes did not hear about it, did not know about it.

The title of the bill—we read the Congressional Record—but we sure missed this one, because from the title of the bill, we could not tell that there was any Indian involvement whatsoever. And it is introduced, and as reported out by the subcommittee, there was no mention of Indians in the bill.

Now, to identify the land, the bill refers to a list. I have filed in the office of the Secretary of the Interior and I called the Secretary of the Interior's office, and I called the Assistant Secretary in charge of public land's office, and neither one knew of any list such as referred to in this bill. But they did refer me to the Eastern States Land office, and I picked up a list from the Eastern States Land office, which I think may be the same as the list they are talking about.

But looking at that list, at least in the copy we got, and this is a list which is supposed to be dated, the list we got has a different title and a different date, but what bothers me, it has already been revised since the date stated in the bill itself. The list contains about 1048 tracts, and most of those tracks are less than one acre. And some of those tracts are lands that have been already restored to the Band. And some of those tracts cannot be identified, so that we can tell whether they can be—were restored to the band.

If you look at the list, you will see it refers to range township insection, but, practically most of the lands described in the list—and the bureau was careful and so was the committee and the House not to use the word describe—they used the word specified. Because they are not described; they are dealing with lands which are an acre or less, and they identify them as being someplace within a 640 acre section.

If you look at the last page of my formal statement, you see we have attached a map. That map which has in the middle of it area 706 identifies the 2.8 million acres that the Red Lake Band ceded

to the United States in trust. And if you go, the boundaries of that are defined in the treaty, and without regard to township sections and range, because the land had not yet been surveyed. But now that the public land grid is laid down across it, every section along every exterior boundary of that 2.8 million acres is crossed.

Now, some place in those exterior sections, this list is trying to tell the committee that they are going to give away some piece of land which is not described. We do not know if that land is inside or outside the 2.8 million acres and the exclusionary clause does not do us any good.

But now we come to Section 2(C) of the bill, which is the section where anybody who has got a claim to the land can come in and the secretary can give it—sell it to them for a discretionary price. On Section 2(C) there is no description of the land, and the exclusionary clause does not apply to it.

We really feel that this bill is not right for consideration by the Congress of the United States. Because even an amateur conveyancer would know that if you are going to give away some land, you ought to identify what you are giving away in a fashion so that we will know where it is on the face of the earth. We ought not further confuse the records. And this would put the burden and expense on the band of trying to find out which land was theirs and which was not theirs; a burden and expense that does not belong to the Band. It belongs to the United States.

We have suggested on the last two pages of the statement, what we think ought to be done for the time being. We think that the State of Minnesota, which may have a legitimate right and interest in this, the Secretary of the Interior and the Band ought to get together and see if we can work out some basis for identifying land that should go to the Band and the lands that should go to the State of Minnesota. So, that we could come back to Congress with a bill in which the, in which the responsibility of the United States, not only to the State of Minnesota, but to the Indian tribes, would be recognized. And the legislation that might come from it would resolve the government's problem, which I understand to be to get rid of the administrative problem of dealing with public lands in Minnesota, but not at the expense of the Red Lake Band.

[The prepared statement of Mr. Sonosky follows:]

BEFORE THE SENATE SUBCOMMITTEE
ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
OF THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

TESTIMONY OF MARVIN J. SONOSKY
ON BEHALF OF
THE RED LAKE BAND OF CHIPPEWAS

SEPTEMBER 12, 1989

ON

H.R. 2783, "TO IMPROVE THE MANAGEMENT OF
CERTAIN PUBLIC LANDS ON MINNESOTA"

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Mr. Chairman and members of the Committee my name is Marvin J. Sonosky. I am a partner in the law firm of Sonosky, Chambers & Sachse in Washington, D.C.. I am testifying on behalf of the Red Lake Band of Chippewa Indians. The Red Lake Reservation is in northern Minnesota about 33 miles north of Bemidji.

At the outset, let me make clear that the Band's interest in H.R. 2783 is limited to the 2.9 million acres of the original Red Lake Reservation that the Band ceded to the United States in trust under the Nelson Act of 1889. H.R. 2789 covers some of those 2.9 million acres.

Section 2 of the bill deals with two title situations. One relates to land that the bill terms "listed uplands and islands." The other relates to lands not so listed. The House thought that none of the land covered by Section 2 of the bill included ceded land. The House Committee added a clause defining listed land as not including ceded lands, (sec. 1(d)(1)). However, the exclusion is confined to land dealt with in Sections 2(a) and (b) and does not apply to Section 2(c) land, the unlisted land. Furthermore the Committee was wrong -- the listed land does include ceded land.

A quick review of the Band's title may help understand the connection to the Nelson Act of 1889 and the basis of the Band's concern with H.R. 2783. By the Nelson Act of 1889, the Band ceded 2.9 million acres of the Red Lake Reservation to the United States in trust. We refer to the ceded area as Area 706. (See Map attached.) The United States agreed to dispose of the land in Area 706 to homesteaders and others and to pay the proceeds to the Chippewas. Important to remember is that until the United States disposed of the land the Band remained the owner. The United States disposed of the land from 1890 until 1934, when Congress halted all further dispositions under the Act. (25 U.S.C. 463a) At that point, the Band became entitled to restoration of all undisposed of land not subject to valid claim.

In 1934 there was substantial acreage in that category. Promptly after the 1934 Act, the Secretary withdrew all such land from disposition pending consideration of

restoration. In 1945, the United States restored to the Band, some, but not all of the undisposed of land in Area 706. In January of this year, Interior invited delegates of the Band to a ceremony in the Assistant Secretary's office in commemoration of the restoration of additional land. Interior presented the Band with a list of additional land to be restored to the Band. Interior told the Band that as soon as the list was published in the Federal Register the restoration would be official.

Perhaps in anticipation of H.R. 2783 the list never was published. H.R. 2783 effectively would make restoration unlikely, primarily because the bill includes tribal land that was restored in 1945, includes land listed for restoration in 1989, fails to identify most of the land affected by the bill, fails to provide for fair notice to the Band of any claims that may be adverse to the Band's title, and fails to give consideration to the restoration of public land to the Band. Even with the exclusionary clause the bill places on the Band the burden of identifying the land that should be restored.

H.R. 2783 relates to the land in four title categories. We deal with the first two categories together.

First category - unclaimed "listed" tracts. Section 2(a) of the bill would convey to Minnesota full title, surface and minerals, to "listed uplands and islands *** which as of January 1, 1989, were not subject to any claim identified on the records of the Bureau of Land Management***."

Second category - claimed "listed" tracts. Section 2(b) would give the owner of any claim identified on the records of the BLM as of January 1, 1989, ten years in which to buy the land, surface and minerals, at a discretionary price fixed by the Secretary. If there is no purchase after ten years, the land goes to Minnesota.

We start with "listed uplands and islands." Section 1(d)(1) defines "listed uplands and islands" to be those public lands specified in a list "dated June 1, 1989, on file in the office of the Secretary of the Interior***." We made inquiry in both the office of the

Secretary and the Assistant Secretary for public land. Neither possessed such a list. The Assistant Secretary's office referred us to the Eastern States Land Office in Virginia. The ESLO gave us a copy of the only Minnesota lands list, which it thought was the list referred to in H.R. 2789. We have no choice but to accept it as such, even though the list we got does not match by date or title the list defined in H.R. 2789. A review of the list establishes that it includes lands the Band ceded under the 1889 Act. However, for reasons explained below, the Band cannot determine exactly how much ceded land is on the list.

It goes without saying that where legislation would transfer title to land by reference to descriptions set out in another document, those descriptions are part of the law. The reference list should be precisely the same as the one presented to Congress; the list should be available in the place stated in the law; the list should not be subject to administrative revision.

The list does not identify each tract of land. The list uses ranges, townships and sections but in most instances does not tell us where the land is located within a section. There are about 1048 tracts on the list, the vast majority containing less than one acre. A full public land section contains 640 acres. The list tells us that one of those 640 acres is a particular one-acre tract, but it does not tell which acre.

For example, and those are typical, look at Tracts 001 and 006 in Beltrami County. The list shows Tract 001 to contain 0.90 of an acre in Section 2, and Tract 006 to contain 0.20 of an acre in Section 9. In other words, somewhere among the 640-acres in a section the bill tells us to look for 0.20 of an acre or 8716 square feet. That sort of conveyancing probably is invalid for lack of certainty. It confuses and clouds titles.

This has particularly significance in the sections intersected by the boundaries of the ceded area. Despite the exclusionary clause there is no way for anyone to know whether a tract in one of the intersected sections is in or out of the ceded area. The bill unfairly places on the Band the burden and expense of identifying these small tracts in order to establish the Band's title.

The first and second categories deal with unclaimed and claimed tracts on the 1048-tract list. The bill immediately would convey the unclaimed tracts, surface and subsurface to Minnesota (sec. 2(a)). The bill gives claimants of claimed tracts ten years to purchase surface and minerals, otherwise the land passes to Minnesota (sec. 2(g)). H.R. 2783 says that unclaimed means tracts not subject to any claim identified on the BLM records as of January 1, 1989, while claimed means a claim was identified on the BLM records as of January 1, 1989.

How can the Band know what is claimed and unclaimed? First of all, the bill does not define what is meant by the records of the BLM as of January 1, 1989. Do records mean the tract books, and if so, do the tract books designate the date entries are made on the tract books so that the Band can tell what came before and what came after January 1, 1989? Do records include case files in archives, memoranda, reports, correspondence, etc. in various offices of the BLM? This ambiguous phrase "on the records of the Bureau of Land Management as of January 1, 1989" would make it virtually impossible for the Band to identify claims as of January 1, 1989.

Judging by the House Committee report, Interior knows which tracts are unclaimed and which are claimed. The House report recites there are about 848 unclaimed tracts, leaving about 200 claimed tracts (Report pp. 4-5). The House report says the 848 unclaimed and the 200 claimed tracts are "specified in a list on file in the Department of the Interior." But H.R. 2783 says nothing about a list in the Department of the Interior. H.R. 2783 refers only to records of the BLM.

Third category - land leased to Minnesota. This land is not part of the 1048 tracts of "listed uplands and islands" referred to in the bill. Section 2(c)(1) would vest Minnesota with title to the surface of all land heretofore leased to Minnesota under the Recreation and Public Purposes Act. Some of this leased land may be land the Band ceded by the Nelson Act. The bill does not identify the leased land. The exclusionary clause in Section 1(d)(1) does not apply to this leased land category, only to the 1048 listed tracts.

Unless the leased land is identified the Band has no way of knowing whether it is land that has been or should be restored to the Band and Congress is denied the opportunity to consider restoration.

Fourth category- land leased or patented to others than Minnesota. Section 2(c)(2) would vest Minnesota with title to the surface of all land leased or patented to others than Minnesota under the Recreation and Public Purposes Act, upon reversion of such land for breach of the conditions of the lease or patent.

These lands are not identified. The Band has no way of learning whether the United States is giving Minnesota land that should be restored to the Band. And Congress is denied the opportunity to consider restoration.

The Band urges:

1. That the exclusionary clause be eliminated from Section 1(d) (lines 15-17) and a new section be added reading as follows:

Sec. __. *Lands ceded under the Nelson Act.* Nothing in this Act shall apply to any lands ceded under the Nelson Act of January 14, 1889 (25 Stat. 692).

2. That the Committee withhold action on the bill to permit the Secretary of the Interior, the Red Lake Band and the State of Minnesota to prepare amendments that would

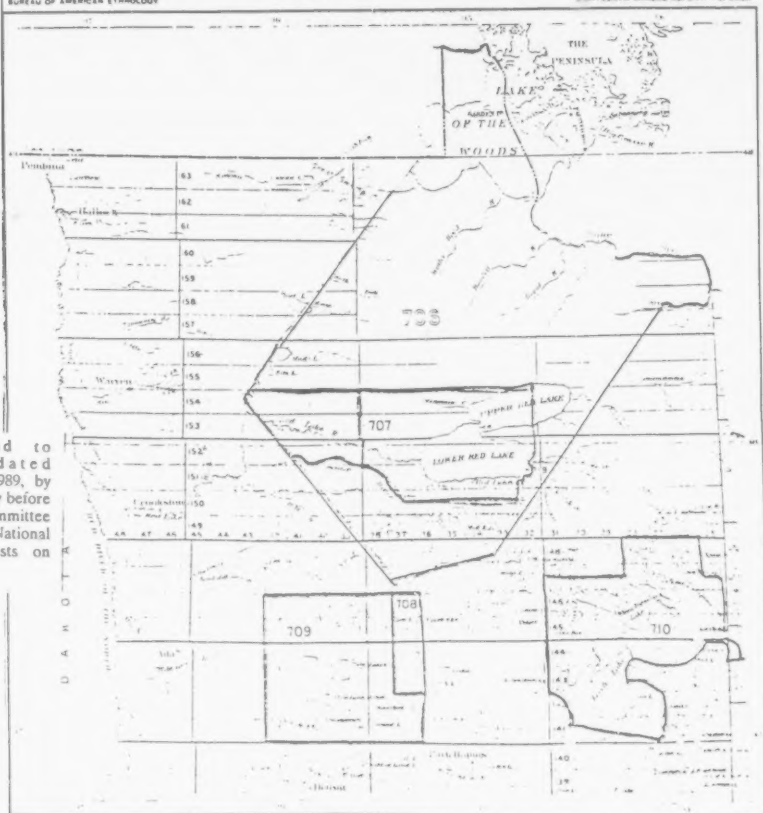
- (a) restore land within the ceded area to the Band;
- (b) identify by legal description the lands to be restored, the lands to be transferred to Minnesota and the lands subject to claimants other than the Band and Minnesota;
- (c) ensure that the Secretary serves the Band with a written notice of any claim or demand or request, by Minnesota, or any one else, for a

transfer of any land ceded by the Red Lake Band under the Nelson Act of January 14, 1889, such notice to afford the Band an opportunity to participate in any proceeding affecting or relating to the title of such ceded land.

Royce 706: ceded by Red Lake Band under Nelson Act
 707: reserved by Red Lake Band under Nelson Act, but pink-shaded townships taken from Red Lake in 1904
 Royce 708: ceded by the White Earth Band under Nelson Act
 709: reserved by White Earth Band under Nelson Act
 Royce 710: ceded by various bands except for that allotted to individual Indians. Note that Royce 710 is comprised of Royce Areas 358, 359, 360, 508, 549, 550, 567 and 568 shown on next page. Royce 710 is known as the greater Leech Lake reservation.

BUREAU OF AMERICAN ETHNOLOGY

SIXTEENTH ANNUAL REPORT PL. CELLS



Map attached to statement dated September 12, 1989, by Marvin J. Sonosky before the Senate Subcommittee on Public Lands, National Parks and Forests on H.R. 2783

MINNESOTA - NORTHERN PORTION

2000-2001

Senator BUMPERS. Thank you, Mr. Sonosky.

Obviously, this bill is going to have to be scrutinized, and your suggestions will certainly be considered by this subcommittee. We want to make sure that the Chippewas, the Red Lake Band, is not harmed in any way. And we will try to make certain that they are not.

Are you an attorney, incidentally, Mr. Sonosky?

Mr. SONOSKY. Yes. I am a lawyer in Washington, DC.

Senator BUMPERS. And you represent the Chippewas?

Mr. SONOSKY. I represent the Red Lake Band of Chippewas on this matter.

Senator BUMPERS. Gentlemen, thank you very much for being with us today. We will stand in recess until the next call of the Chair.

[Whereupon, at 4:20 p.m., the hearing was adjourned.]

